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## **TITLE 42--THE PUBLIC HEALTH AND WELFARE**

### **CHAPTER 119--HOMELESS ASSISTANCE**

#### **SUBCHAPTER IV--HOUSING ASSISTANCE**

##### **Part A--Comprehensive Homeless Assistance Plan**

##### **Sec. 11361. Housing affordability strategy**

Assistance may be made under this subchapter only if the grantee certifies that it is following--

(1) a current housing affordability strategy which has been approved by the Secretary in accordance with section 12705 of this title, or

(2) a comprehensive homeless assistance plan which was approved by the Secretary during the 180-day period beginning on November 28, 1990, or during such longer period as may be prescribed by the Secretary in any case for good cause.

(Pub. L. 100-77, title IV, Sec. 401, July 22, 1987, 101 Stat. 494; Pub. L. 100-628, title IV, Secs. 401-404, Nov. 7, 1988, 102 Stat. 3230, 3231; Pub. L. 101-625, title VIII, Secs. 831, 832(e)(3), 836(a), Nov. 28, 1990, 104 Stat. 4357, 4360, 4366.)

##### **Amendments**

1990--Pub. L. 101-625, Sec. 836(a), amended section generally, substituting present provisions for provisions requiring the annual submission of a comprehensive homeless assistance plan with requirements for contents of the plan, review of the plan, performance reviews under the plan, publication by notice, applications for assistance, coordination with State agencies, and consultation with other private and public groups and entities regarding the plan.

Subsec. (a). Pub. L. 101-625, Sec. 831(b)(1), inserted at end  
` Assistance authorized by this subchapter may be provided to any

Indian tribe that is eligible to receive a grant under the emergency shelter grants program in any fiscal year, but only if the tribe submits biennially to the Secretary of Housing and Urban Development a comprehensive homeless assistance plan under this section."

Subsec. (a)(1). Pub. L. 101-625, Sec. 831(c)(2)(A), substituted ``biennially" for ``annually".

Subsec. (b)(2). Pub. L. 101-625, Sec. 831(c)(2)(B), substituted ``, services, and programs" for ``and services".

Subsec. (b)(3). Pub. L. 101-625, Sec. 831(c)(2)(C), substituted ``, services, and programs" for ``and services" in cl. (A), struck out ``and" before ``(B)", and added cls. (C) to (F).

Subsec. (b)(5). Pub. L. 101-625, Sec. 831(b)(2), inserted ``Indian tribe," after ``State,".

Subsec. (b)(7), (8). Pub. L. 101-625, Sec. 831(a), added pars. (7) and (8).

Subsec. (b)(9). Pub. L. 101-625, Sec. 832(e)(3), added par. (9).

Subsecs. (c)(1), (d). Pub. L. 101-625, Sec. 831(b)(3), (4), inserted ``Indian tribe," after ``State," wherever appearing.

Subsec. (g). Pub. L. 101-625, Sec. 831(b)(5), inserted ``(or tribal agency or contact)" after ``State contact person", ``(or tribe)" before comma, and ``(or tribal agency or contact person)" after ``or contact person".

Subsec. (h). Pub. L. 101-625, Sec. 831(c)(1), added subsec. (h).

1988--Subsec. (a)(1). Pub. L. 100-628, Sec. 401(a), inserted ``annually" after ``submits".

Subsec. (a)(2), (3). Pub. L. 100-628, Sec. 401(b), added par. (2) and redesignated former par. (2) as (3).

Subsec. (b)(3). Pub. L. 100-628, Sec. 402(1), inserted ``facilities and" before ``services" and struck out ``and" at end.

Subsec. (b)(4). Pub. L. 100-628, Sec. 402(2), inserted ``facilities and" before ``services" and substituted a semicolon for period at end.

Subsec. (b)(5), (6). Pub. L. 100-628, Sec. 402(3), added pars. (5) and (6).

Subsec. (d)(3). Pub. L. 100-628, Sec. 403, inserted before period at end ``or to respond to recommendations made in accordance with paragraph (2) that are received at least 60 days prior to the beginning of the fiscal year".

Subsec. (g). Pub. L. 100-628, Sec. 404, added subsec. (g).

Effective Date of 1990 Amendment

Section 836(b) of Pub. L. 101-625 provided that: ``The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1991."

## Evaluation of Programs

Pub. L. 102-550, title XIV, Sec. 1409, Oct. 28, 1992, 106 Stat. 4038, as amended by Pub. L. 105-362, title VII, Sec. 701(c), Nov. 10, 1998, 112 Stat. 3287, provided that: ``The Secretary of Housing and Urban Development shall conduct a comprehensive review and evaluation of the effectiveness of each program under title IV of the Stewart B. McKinney Homeless Assistance Act [42 U.S.C. 11361 et seq.]. In conducting the review, the Secretary shall examine procedures of the Department in carrying out such programs, the procedures of recipients of assistance under such programs in carrying out such programs, and the effects and benefits of such programs; shall survey homeless individuals and families assisted under each program in various jurisdictions receiving assistance under each program; shall determine whether such programs are fulfilling the purposes for which they were established; and shall evaluate the usefulness and effectiveness of such programs."

## Homeless Housing Act of 1986

Pub. L. 99-500, Sec. 101(g) [H.R. 5313, title V], Oct. 18, 1986, 100 Stat. 1783-242, and Pub. L. 99-591, Sec. 101(g) [H.R. 5313, title V], Oct. 30, 1986, 100 Stat. 3341-242; Pub. L. 99-514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-202, Sec. 106, Dec. 22, 1987, 101 Stat. 1329-433, provided that title V of H.R. 5315 be cited as the ``Homeless Housing Act of 1986", established a transitional housing demonstration program and directed Secretary of Housing and Urban Development to submit to Congress, not later than 3 months after the end of fiscal year 1987, an interim report summarizing activities under this program during such fiscal year and, not later than 6 months after the end of fiscal year 1988, a final report summarizing such activities, established an emergency shelter grants program to make grants to States, units of local government, and private nonprofit organizations providing assistance to the homeless, and appropriated \$15,000,000 for fiscal year 1987, to remain available until expended, to carry out both programs.

## **Sec. 11371. Definitions**

For purposes of this part:

(1) The term ``local government'' means a unit of general purpose local government.

(2) The term ``locality'' means the geographical area within the jurisdiction of a local government.

(3) The term ``metropolitan city'' has the meaning given such term in section 5302 of this title.

(4) The term ``operating costs'' means expenses incurred by a recipient operating a facility assisted under this part with respect to--

(A) the administration, maintenance, repair, and security of such housing; and

(B) utilities, fuels, furnishings, and equipment for such housing.

(5) The term ``private nonprofit organization'' means a secular or religious organization described in section 501(c) of title 26 that is exempt from taxation under subtitle A of title 26, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance.

(6) The term ``recipient'' means any governmental or private nonprofit entity that is approved by the Secretary as to financial responsibility.

(7) The term ``Secretary'' means the Secretary of Housing and Urban Development.

(8) The term ``State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(9) The term ``urban county'' has the meaning given such term in section 5302 of this title.

(Pub. L. 100-77, title IV, Sec. 411, July 22, 1987, 101 Stat. 495; Pub. L. 101-625, title VIII, Sec. 832(f)(1), Nov. 28, 1990, 104 Stat. 4361; Pub. L. 104-330, title V, Sec. 506(a)(1), Oct. 26, 1996, 110 Stat. 4044.)

Amendments

1996--Par. (10). Pub. L. 104-330 struck out par. (10) which read as follows: ``The term `Indian tribe' has the meaning given such term in section 5302(a)(17) of this title."

1990--Par. (10). Pub. L. 101-625 added par. (10).

#### Effective Date of 1996 Amendment

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Section 506(c) of Pub. L. 104-330 provided that: ``The amendments under subsections (a) [amending this section and sections 11372 to 11376, 11382, 11401, 11403g, and 11408 of this title] and (b) [amending provisions formerly set out as a note under section 11301 of this title] shall apply with respect to amounts made available for assistance under title IV of the Stewart B. McKinney Homeless Assistance Act [42 U.S.C. 11361 et seq.] and section 2 of the HUD Demonstration Act of 1993 [Pub. L. 103-120, former 42 U.S.C. 11301 note], respectively, for fiscal year 1998 and fiscal years thereafter."

#### Termination of Trust Territory of the Pacific Islands

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

### **Sec. 11372. Grant assistance**

The Secretary of Housing and Urban Development shall, to the extent of amounts approved in appropriation Acts under section 11377 of this title, make grants to States and local governments (and to private nonprofit organizations providing assistance to homeless individuals, in the case of grants made with reallocated amounts) in order to carry out activities described in section 11374 of this title.

(Pub. L. 100-77, title IV, Sec. 412, July 22, 1987, 101 Stat. 496; Pub. L. 101-625, title VIII, Sec. 832(f)(2), Nov. 28, 1990, 104 Stat. 4361;

Pub. L. 104-330, title V, Sec. 506(a)(2), Oct. 26, 1996, 110 Stat. 4044.)

## Amendments

1996--Pub. L. 104-330 struck out `` , and for Indian tribes," after `` local governments".

1990--Pub. L. 101-625 substituted `` States and local governments, and for Indian tribes," for `` States and local governments".

## Effective Date of 1996 Amendment

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104-330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years thereafter, see section 506(c) of Pub. L. 104-330, set out as a note under section 11371 of this title.

## **Sec. 11373. Allocation and distribution of assistance**

### (a) In general

The Secretary shall allocate assistance under this part to metropolitan cities, urban counties, and States (for distribution to local governments and private nonprofit organizations in the States) in a manner that ensures that the percentage of the total amount available under this part for any fiscal year that is allocated to any State, metropolitan city, or urban county is equal to the percentage of the total amount available for section 5306 of this title for such prior fiscal year that is allocated to such State, metropolitan city, or urban county.

### (b) Minimum allocation requirement

If, under the allocation provisions applicable under this part, any metropolitan city or urban county would receive a grant of less than

0.05 percent of the amounts appropriated to carry out this part for any fiscal year, such amount shall instead be reallocated to the State, except that any city that is located in a State that does not have counties as local governments, that has a population greater than 40,000 but less than 50,000 as used in determining the fiscal year 1987 community development block grant program allocation, and that was allocated in excess of \$1,000,000 in community development block grant funds in fiscal year 1987, shall receive directly the amount allocated to such city under subsection (a) of this section.

(c) Distributions to nonprofit organizations

Any local government receiving assistance under this part may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals. Any State receiving assistance under this part may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals, if the local government for the locality in which the project is located certifies that it approves of the project.

(d) Reallocation of funds

(1) The Secretary shall, not less than twice during each fiscal year, reallocate any assistance provided under this part that is unused or returned or that becomes available under subsection (b) of this section.

(2) If a city or county eligible for a grant under subsection (a) of this section fails to obtain approval of its comprehensive plan during the 90-day period following the date funds authorized by this part first become available for allocation during any fiscal year, the amount that the city or county would have received shall be available to the State in which the city or county is located if the State has obtained approval of its comprehensive plan. Any amounts that cannot be allocated to a State under the preceding sentence shall be reallocated to other States, counties, and cities that demonstrate extraordinary need or large numbers of homeless individuals, as determined by the Secretary.

(3) If a State fails to obtain approval of its comprehensive plan during the 90-day period following the date funds authorized by this part first become available for allocation during any fiscal year, the amount that the State would have received shall be reallocated to other States and to cities and counties as applicable, that demonstrate extraordinary need or large numbers of homeless individuals, as determined by the Secretary.

#### (e) Allocations to territories

In addition to the other allocations required in this section, the Secretary shall (for amounts appropriated after July 22, 1987) allocate assistance under this part to the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, in accordance with an allocation formula established by the Secretary.

(Pub. L. 100-77, title IV, Sec. 413, July 22, 1987, 101 Stat. 496; Pub. L. 100-628, title IV, Sec. 421, Nov. 7, 1988, 102 Stat. 3231; Pub. L. 101-625, title VIII, Sec. 832(f)(3)-(5), Nov. 28, 1990, 104 Stat. 4361; Pub. L. 104-330, title V, Sec. 506(a)(3), Oct. 26, 1996, 110 Stat. 4044.)

#### Amendments

1996--Subsec. (a). Pub. L. 104-330, Sec. 506(a)(3)(A), struck out `` , and to Indian tribes," after ``in the States)" and `` , or for Indian tribes" after ``or urban county" in two places.

Subsec. (c). Pub. L. 104-330, Sec. 506(a)(3)(B), struck out ``or Indian tribe" after ``Any local government".

Subsec. (d)(3). Pub. L. 104-330, Sec. 506(a)(3)(C)(ii), struck out `` , or other Indian tribes," after ``cities and counties".

Pub. L. 104-330, Sec. 506(a)(3)(C)(i), which directed amendment of par. (3) by striking `` , or Indian tribe" each place it appeared, was executed by striking ``or Indian tribe" after ``State" in two places to reflect the probable intent of Congress.

1990--Subsec. (a). Pub. L. 101-625, Sec. 832(f)(3), inserted `` , and to Indian tribes," after ``States)" and `` , or for Indian tribes" after ``urban county" in two places.

Subsec. (c). Pub. L. 101-625, Sec. 832(f)(4), inserted ``or Indian tribe" after ``local government".

Subsec. (d)(3). Pub. L. 101-625, Sec. 832(f)(5), inserted ``or Indian tribe" after ``State" in two places and `` , or other Indian tribes, as applicable," after ``counties".

1988--Subsec. (a). Pub. L. 100-628, Sec. 421(a), inserted ``and private nonprofit organizations" after ``local governments".

Subsec. (c). Pub. L. 100-628, Sec. 421(b), inserted at end ``Any State receiving assistance under this part may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals, if the local government for the



locality in which the project is located certifies that it approves of the project."

#### Effective Date of 1996 Amendment

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104-330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years thereafter, see section 506(c) of Pub. L. 104-330, set out as a note under section 11371 of this title.

#### Termination of Trust Territory of the Pacific Islands

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

### **Sec. 11374. Eligible activities**

#### (a) In general

Assistance provided under this part may be used for the following activities relating to emergency shelter for homeless individuals:

(1) The renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.

(2) The provision of essential services, including services concerned with employment, health, drug abuse, or education, if--

(A) such services have not been provided by the local government during any part of the immediately preceding 12-month period, or the use of assistance under this part would complement those services; and

(B) not more than 30 percent of the aggregate amount of all assistance to a State or local government under this part is used for activities under this paragraph.

(3) Maintenance, operation, insurance, utilities, and furnishings, except that not more than 10 percent of the amount of any grant received under this part may be used for costs of staff.

(4) Efforts to prevent homelessness such as financial assistance to families who have received eviction notices or notices of termination of utility services if--

(A) the inability of the family to make the required payments is due to a sudden reduction in income;

(B) the assistance is necessary to avoid the eviction or termination of services;

(C) there is a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and

(D) the assistance will not supplant funding for preexisting homelessness prevention activities from other sources.

Not more than 30 percent of the aggregate amount of all assistance to a State or local government under this part may be used for activities under this paragraph.

#### (b) Waiver authority

The Secretary may waive the 20 percent limitation on the use of assistance for essential services contained in subsection (a)(2)(B) of this section, if the local government receiving the assistance demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources.

(Pub. L. 100-77, title IV, Sec. 414, July 22, 1987, 101 Stat. 497; Pub. L. 100-628, title IV, Secs. 422, 423(a), Nov. 7, 1988, 102 Stat. 3231; Pub. L. 101-625, title VIII, Sec. 832(c), (d), (f)(6), Nov. 28, 1990, 104 Stat. 4360, 4361; Pub. L. 102-550, title XIV, Sec. 1402(e), Oct. 28, 1992, 106 Stat. 4013; Pub. L. 104-330, title V, Sec. 506(a)(4), Oct. 26, 1996, 110 Stat. 4044.)

#### Amendments

1996--Subsec. (a)(2). Pub. L. 104-330 struck out ``or Indian tribe'' after ``local government'' in subpar. (A) and substituted ``or local government'' for `` , local government, or Indian tribe'' in subpar. (B).

Subsec. (a)(4). Pub. L. 104-330 substituted ``or local government'' for `` , local government, or Indian tribe'' in concluding provisions.

1992--Subsec. (a)(3). Pub. L. 102-550 struck out `` (other than staff)'' after ``operation'' and inserted before period at end `` , except

that not more than 10 percent of the amount of any grant received under this part may be used for costs of staff".

1990--Subsec. (a)(2)(A). Pub. L. 101-625, Sec. 832(f)(6)(A), inserted ``or Indian tribe" after ``local government".

Subsec. (a)(2)(B). Pub. L. 101-625, Sec. 832(c), (f)(6)(B), substituted ``30 percent" for ``20 percent" and `` , local government, or Indian tribe" for ``or local government".

Subsec. (a)(4). Pub. L. 101-625, Sec. 832(d), substituted sentence at end for ``Activities under this paragraph shall be treated as `essential services' for the purpose of paragraph (2)(B)."

1988--Subsec. (a)(2)(A). Pub. L. 100-628, Sec. 422(b), inserted before semicolon `` , or the use of assistance under this part would complement those services".

Subsec. (a)(2)(B). Pub. L. 100-628, Sec. 422(a), substituted ``20" for ``15" and ``the aggregate amount of all assistance to a State or" for ``the amount of any assistance to a".

Subsec. (a)(4). Pub. L. 100-628, Sec. 423(a), added par. (4).

Subsec. (b). Pub. L. 100-628, Sec. 422(a)(1), substituted ``20" for ``15".

#### Effective Date of 1996 Amendment

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104-330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years thereafter, see section 506(c) of Pub. L. 104-330, set out as a note under section 11371 of this title.

#### Report by Comptroller General

Section 423(b) of Pub. L. 100-628 provided that: ``The Comptroller General of the United States shall conduct a study and report to the Congress not later than 1 year after the date of the enactment of this Act [Nov. 7, 1988] on various programs to prevent homelessness implemented by grantees, with particular focus on the different methods employed by grantees to determine eligibility for homelessness prevention assistance and restrictions or limitations, if any, imposed under such programs. Such report shall include--

``(1) an examination of other homelessness prevention programs, including other Federal programs and State and local programs; and

``(2) recommendations for such legislation as the Comptroller General determines appropriate, including recommendations on how to prevent homelessness as a result of mortgage foreclosures."

#### Section Referred to in Other Sections

This section is referred to in sections 11372, 11375 of this title.

### **Sec. 11375. Responsibilities of recipients**

#### (a) Matching amounts

(1) Except as provided in paragraph (2), each recipient under this part shall be required to supplement the assistance provided under this part with an equal amount of funds from sources other than this part. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with such certification a description of the sources and amounts of such supplemental funds.

(2) Each recipient under this part that is a State shall be required to supplement the assistance provided under this part with an amount of funds from sources other than this part equal to the difference between the amount received under this part and \$100,000. If the amount received by the State is \$100,000 or less, the State may not be required to supplement the assistance provided under this part.

(3) In calculating the amount of supplemental funds provided by a recipient under this part, a recipient may include the value of any donated material or building, the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

#### (b) Administration of assistance

Each recipient shall act as the fiscal agent of the Secretary with respect to assistance provided to such recipient.

#### (c) Certifications on use of assistance

Each recipient shall certify to the Secretary that--

(1) it will--

(A) in the case of assistance involving major rehabilitation or conversion, maintain any building for which assistance is used under this part as a shelter for homeless individuals and families for not less than a 10-year period;

(B) in the case of assistance involving rehabilitation (other than major rehabilitation or conversion), maintain any building for which assistance is used under this part as a shelter for homeless individuals and families for not less than a 3-year period; or

(C) in the case of assistance involving solely activities described in paragraphs (2) and (3) of section 11374(a) of this title, provide services or shelter to homeless individuals and families for the period during which such assistance is provided, without regard to a particular site or structure as long as the same general population is served;

(2) any renovation carried out with assistance under this part shall be sufficient to ensure that the building involved is safe and sanitary;

(3) it will assist homeless individuals in obtaining--

(A) appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

(B) other Federal, State, local, and private assistance available for such individuals;

(4) in the case of a recipient that is a State, it will obtain any matching amounts required under subsection (a) of this section in a manner so that local governments, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the \$100,000 subtrahend under subsection (a)(2) of this section;

(5) it will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this part and that the address or location of any family violence shelter project assisted under this part will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public;

(6) activities undertaken by the recipient with assistance under this part are consistent with any housing strategy submitted by the grantee in accordance with section 12705 of this title; and

(7) to the maximum extent practicable, it will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under this part, in providing services assisted under this part, and in providing services for occupants of facilities assisted under this part.

#### (d) Participation of homeless individuals

The Secretary shall, by regulation, require each recipient that is not a State to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such recipient, to the extent that such entity considers and makes policies and decisions regarding any facility, services, or other assistance of the recipient assisted under this part. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

#### (e) Termination of assistance

If an individual or family who receives assistance under this part from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals affected, which may include a hearing.

(Pub. L. 100-77, title IV, Sec. 415, July 22, 1987, 101 Stat. 497; Pub. L. 100-628, title IV, Sec. 424, Nov. 7, 1988, 102 Stat. 3232; Pub. L. 101-625, title VIII, Sec. 832(e)(1), (2), (h), Nov. 28, 1990, 104 Stat. 4360, 4362; Pub. L. 102-550, title XIV, Sec. 1402(b)-(d), Oct. 28, 1992, 106 Stat. 4012, 4013; Pub. L. 104-330, title V, Sec. 506(a)(5), Oct. 26, 1996, 110 Stat. 4044.)

#### Amendments

1996--Subsec. (c)(4). Pub. L. 104-330 struck out ``Indian tribes," after ``local governments,".

1992--Subsec. (c). Pub. L. 102-550, Sec. 1402(b), in par. (1), substituted a semicolon for period at end, in par. (3), struck out ``and" at end, in par. (4), inserted ``it will" after ``State," and struck out ``and" at end, in par. (5), inserted ``it will" before ``develop" and substituted a semicolon for period at end, redesignated par. (4), relating to consistency of activities undertaken with assistance under this part, as (6) and substituted ``; and" for period at end, and added par. (7).

Subsec. (d). Pub. L. 102-550, Sec. 1402(c), added subsec. (d).

Subsec. (e). Pub. L. 102-550, Sec. 1402(d), added subsec. (e).

1990--Subsec. (a)(1). Pub. L. 101-625, Sec. 832(e)(1)(A), substituted ``Except as provided in paragraph (2), each" for ``Each".

Subsec. (a)(2), (3). Pub. L. 101-625, Sec. 832(e)(1)(B), (C), added par. (2) and redesignated former par. (2) as (3).

Subsec. (c)(2), (3). Pub. L. 101-625, Sec. 832(e)(2)(A), (B), (h)(1), (2), amended subsec. (c) identically, striking ``and" at end of par. (2) and substituting ``; and" for period at end of par. (3).

Subsec. (c)(4). Pub. L. 101-625, Sec. 832(h)(3), added (after par. (5)) par. (4) relating to consistency of activities undertaken with assistance under this part.

Pub. L. 101-625, Sec. 832(e)(2)(C), added par. (4) relating to matching funds obtained by State recipients of assistance under this part.

Subsec. (c)(5). Pub. L. 101-625, Sec. 832(e)(2)(C), added par. (5).

1988--Subsec. (c)(1). Pub. L. 100-628 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ``it will maintain any building for which assistance is used under this part as a shelter for homeless individuals for not less than a 3-year period or for not less than a 10-year period if such assistance is used for the major rehabilitation or conversion of such building;".

#### Effective Date of 1996 Amendment

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104-330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years thereafter, see section 506(c) of Pub. L. 104-330, set out as a note under section 11371 of this title.

## **Sec. 11376. Administrative provisions**

### **(a) Regulations**

Not later than 60 days after July 22, 1987, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this part. Such requirements shall be subject to section 553 of title 5. The Secretary shall issue requirements based on the initial notice before the expiration of the 12-month period following July 22, 1987. Prior to the issuance of such requirements in final form, the requirements established by the Secretary implementing the provisions of the emergency shelter grants program under the provisions made effective by section 101(g) of Public Law 99-500 or Public Law 99-591 shall govern the emergency shelter grants program under this part.

### **(b) Initial allocation of assistance**

Not later than the expiration of the 60-day period following the date of enactment of a law providing appropriations to carry out this part, the Secretary shall notify each State, metropolitan city, and urban county that is to receive a direct grant of its allocation of assistance under this part. Such assistance shall be allocated and may be used notwithstanding any failure of the Secretary to issue requirements under subsection (a) of this section.

### **(c) Minimum standards of habitability**

The Secretary shall prescribe such minimum standards of habitability as the Secretary determines to be appropriate to ensure that emergency shelters assisted under this section are environments that provide appropriate privacy, safety, and sanitary and other health-related conditions for homeless persons and families. Grantees are authorized to establish standards of habitability in addition to those prescribed by the Secretary.

(Pub. L. 100-77, title IV, Sec. 416, July 22, 1987, 101 Stat. 498; Pub. L. 101-625, title VIII, Sec. 832(f)(7), (g), Nov. 28, 1990, 104 Stat. 4361; Pub. L. 104-330, title V, Sec. 506(a)(6), Oct. 26, 1996, 110 Stat. 4044.)

References in Text



The emergency shelter grants program under the provisions made effective by section 101(g) of Public Law 99-500 or Public Law 99-591, referred to in subsec. (a), means the emergency shelter grants program authorized by title V of H.R. 5313 [Department of Housing and Urban Development--Independent Agencies Appropriations Act, 1987], as incorporated by reference by section 101(g) of Pub. L. 99-500 and 99-591, and enacted into law by section 106 of Pub. L. 100-202, which is set out as a note under section 11361 of this title.

## Amendments

1996--Subsec. (b). Pub. L. 104-330 struck out ``Indian tribe," after ``State,".

1990--Subsec. (b). Pub. L. 101-625, Sec. 832(f)(7), inserted ``Indian tribe," after ``State,".

Subsec. (c). Pub. L. 101-625, Sec. 832(g), added subsec. (c).

## Effective Date of 1996 Amendment

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104-330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years thereafter, see section 506(c) of Pub. L. 104-330, set out as a note under section 11371 of this title.

## **Sec. 11377. Authorization of appropriations**

There are authorized to be appropriated to carry out this part \$138,000,000 for fiscal year 1993 and \$143,796,000 for fiscal year 1994.

(Pub. L. 100-77, title IV, Sec. 417, July 22, 1987, 101 Stat. 498; Pub. L. 100-628, title IV, Sec. 425, Nov. 7, 1988, 102 Stat. 3232; Pub. L. 101-625, title VIII, Sec. 832(a), Nov. 28, 1990, 104 Stat. 4359; Pub. L. 102-550, title XIV, Sec. 1402(a), Oct. 28, 1992, 106 Stat. 4012.)

## Amendments

1992--Pub. L. 102-550 amended section generally. Prior to amendment, section read as follows: ``There are authorized to be appropriated to carry out this part \$125,000,000 for fiscal year 1991 and \$138,000,000 for fiscal year 1992."

1990--Pub. L. 101-625, which directed the general amendment of the ``first sentence" of this section, was executed by making the substitution for the only sentence of this section which read: ``There are authorized to be appropriated to carry out this part \$120,000,000 for fiscal year 1989 and \$125,000,000 for fiscal year 1990."

1988--Pub. L. 100-628 amended section generally. Prior to amendment, section read as follows: ``In addition to other amounts authorized by law, there are authorized to be appropriated for the emergency shelter grants program \$100,000,000 for fiscal year 1987 and \$120,000,000 for fiscal year 1988."

## Section Referred to in Other Sections

This section is referred to in section 11372 of this title.

## **Sec. 11378. Administrative costs**

A recipient may use up to 5 percent of any annual grant received under this part for administrative purposes. A recipient State shall share the amount available for administrative purposes pursuant to the preceding sentence with local governments funded by the State.

(Pub. L. 100-77, title IV, Sec. 418, as added Pub. L. 101-625, title VIII, Sec. 832(b)(1), Nov. 28, 1990, 104 Stat. 4359.)

## **Sec. 11381. Purpose**

The purpose of the program under this part is to promote the development of supportive housing and supportive services, including innovative approaches to assist homeless persons in the transition from homelessness, and to promote the provision of supportive

housing to homeless persons to enable them to live as independently as possible.

(Pub. L. 100-77, title IV, Sec. 421, as added Pub. L. 102-550, title XIV, Sec. 1403(a), Oct. 28, 1992, 106 Stat. 4013.)

#### Prior Provisions

A prior section 11381, Pub. L. 100-77, title IV, Sec. 421, July 22, 1987, 101 Stat. 498, related to establishment of a supportive housing demonstration program, prior to repeal by Pub. L. 102-550, title XIV, Sec. 1403(a), Oct. 28, 1992, 106 Stat. 4013.

#### Transitional Provision

Section 1403(b) of Pub. L. 102-550 provided that: ``Notwithstanding the amendment made by subsection (a) [adding part C and repealing former parts C and D of this subchapter], before the date of the effectiveness of the regulations issued under section 427 of the Stewart B. McKinney Homeless Assistance Act [42 U.S.C. 11387] (as amended by subsection (a) of this section) the Secretary may make grants under the provisions of subtitles C and D of [title IV of] the Stewart B. McKinney Homeless Assistance Act [former parts C and D of this subchapter], as in effect immediately before the enactment of this Act [Oct. 28, 1992]. Any grants made before such effective date shall be subject to the provisions of such subtitles."

#### Demonstration Projects To Reduce Number of Homeless Families in Welfare Hotels

Pub. L. 100-628, title IX, Sec. 903, Nov. 7, 1988, 102 Stat. 3258, as amended by Pub. L. 104-193, title I, Sec. 110(g), Aug. 22, 1996, 110 Stat. 2171, authorized Secretary of Health and Human Services to carry out 2 or 3 demonstration projects to provide housing in transitional facilities for homeless families who are recipients of assistance under a State program funded by part A of subchapter IV of chapter 7 of this title and who reside in commercial or similar transient facilities and authorized appropriations of not more than \$20,000,000 for the grants for fiscal year 1990.

## **Sec. 11382. Definitions**

For purposes of this part:

(1) The term ``applicant" means a State, metropolitan city, urban county, governmental entity, private nonprofit organization, or community mental health association that is a public nonprofit organization, that is eligible to receive assistance under this part and submits an application under section 11386(a) of this title.

(2) The term ``disability" means--

(A) a disability as defined in section 423 of this title,

(B) to be determined to have, pursuant to regulations issued by the Secretary, a physical, mental, or emotional impairment which (i) is expected to be of long-continued and indefinite duration, (ii) substantially impedes an individual's ability to live independently, and (iii) of such a nature that such ability could be improved by more suitable housing conditions,

(C) a developmental disability as defined in section 6001 of this title, or

(D) the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agency for acquired immunodeficiency syndrome.

Subparagraph (D) shall not be construed to limit eligibility under subparagraphs (A) through (C) or the provisions referred to in subparagraphs (A) through (C).

(3) Repealed. Pub. L. 104-330, title V, Sec. 506(a)(7)(B), Oct. 26, 1996, 110 Stat. 4044.

(4) The term ``metropolitan city" has the meaning given the term in section 5302 of this title.

(5) The term ``operating costs" means expenses incurred by a recipient operating supportive housing under this part with respect to--

(A) the administration, maintenance, repair, and security of such housing;

(B) utilities, fuel, furnishings, and equipment for such housing; and

(C) the conducting of the assessment under section 11386(c)(2) of this title.

(6) The term ``outpatient health services" means outpatient health care, outpatient mental health services, outpatient substance abuse services, and case management.

(7) The term ``private nonprofit organization" means an organization--

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) that has a voluntary board;

(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

(D) that practices nondiscrimination in the provision of assistance.

(8) The term ``project" means a structure or structures (or a portion of such structure or structures) that is acquired, rehabilitated, constructed, or leased with assistance provided under this part or with respect to which the Secretary provides technical assistance or annual payments for operating costs under this part, or supportive services.

(9) The term ``recipient" means any governmental or nonprofit entity that receives assistance under this part.

(10) The term ``Secretary" means the Secretary of Housing and Urban Development.

(11) The term ``State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau.

(12) The term ``supportive housing" means a project that meets the requirements of section 11384 of this title.

(13) The term ``supportive services" means services under section 11385 of this title.

(14) The term ``urban county" has the meaning given the term in section 5302 of this title.

(Pub. L. 100-77, title IV, Sec. 422, as added Pub. L. 102-550, title XIV, Sec. 1403(a), Oct. 28, 1992, 106 Stat. 4014; amended Pub. L. 104-330, title V, Sec. 506(a)(7), Oct. 26, 1996, 110 Stat. 4044.)

#### Prior Provisions

A prior section 11382, Pub. L. 100-77, title IV, Sec. 422, July 22, 1987, 101 Stat. 499; Pub. L. 100-242, title V, Sec. 570(i)(1), Feb. 5, 1988, 101 Stat. 1950; Pub. L. 100-628, title IV, Secs. 441(a), 442(a), (b)(1), 443, 444, Nov. 7, 1988, 102 Stat. 3232, 3233; Pub. L. 101-625, title VIII, Sec. 833(b), (k)(1), Nov. 28, 1990, 104 Stat. 4362, 4364, defined terms for purposes of the supportive housing demonstration program, prior to repeal by Pub. L. 102-550, Sec. 1403(a).

## Amendments

1996--Par. (1). Pub. L. 104-330, Sec. 506(a)(7)(A), struck out ``Indian tribe," after ``a State".

Par. (3). Pub. L. 104-330, Sec. 506(a)(7)(B), struck out par. (3) which read as follows: ``The term `Indian tribe' has the meaning given the term in section 5302(a) of this title."

## Effective Date of 1996 Amendment

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104-330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years thereafter, see section 506(c) of Pub. L. 104-330, set out as a note under section 11371 of this title.

## **Sec. 11383. Eligible activities**

(a) In general The Secretary may provide any project with one or more of the following types of assistance under this part:

(1) Acquisition and rehabilitation A grant, in an amount not to exceed \$200,000, for the acquisition, rehabilitation, or acquisition and rehabilitation, of an existing structure (including a small commercial property or office space) to provide supportive housing other than emergency shelter or to provide supportive services; except that the Secretary may increase the dollar limitation under this sentence to not more than \$400,000 for areas that the Secretary finds have high acquisition and rehabilitation costs. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for a grant under this paragraph if the structure was not used as supportive housing, or to provide supportive services, before the receipt of assistance.

(2) New construction A grant, in an amount not to exceed \$400,000, for new construction of a structure to provide supportive housing.

(3) Leasing A grant for leasing of an existing structure or structures, or portions thereof, to provide supportive housing or supportive services during the period covered by the application. Grant recipients may reapply for such assistance as needed to continue the use of such structure for purposes of this part.

(4) Operating costs Annual payments for operating costs of housing assisted under this part, not to exceed 75 percent of the annual operating costs of such housing. Grant recipients may reapply for such assistance as needed to continue the use of the housing for purposes of this part.

(5) Supportive services A grant for costs of supportive services provided to homeless individuals. Any recipient, including program recipients under this subchapter before October 28, 1992, may reapply for such assistance or for the renewal of such assistance to continue services funded under prior grants or to provide other services.

(6) Technical assistance Technical assistance in carrying out the purposes of this part.

(b) Use restrictions

(1) Acquisition, rehabilitation, and new construction Projects assisted under subsection (a)(1) or (2) of this section shall be operated for not less than 20 years for the purpose specified in the application.

(2) Other assistance Projects assisted under subsection (a)(3), (4), (5), or (6) of this section (but not under subsection (a)(1) or (2) of this section) shall be operated for the purposes specified in the application for the duration of the period covered by the grant.

(3) Conversion If the Secretary determines that a project is no longer needed for use as supportive housing and approves the use of the project for the direct benefit of low-income persons pursuant to a request for such use by the recipient operating the project, the Secretary may authorize the recipient to convert the project to such use.

(c) Repayment of assistance and prevention of undue benefits

(1) Repayment The Secretary shall require recipients to repay 100 percent of any assistance received under subsection (a)(1) or (2) of this section if the project ceases to be used as supportive housing within 10 years after the project is placed in service. If such project is used as supportive housing for more than 10 years, the Secretary shall reduce the percentage of the amount required to be repaid by 10 percentage points for each year in excess of 10 that the project is used as supportive housing.

(2) Prevention of undue benefits Except as provided in paragraph (3), upon any sale or other disposition of a project assisted under subsection (a)(1) or (2) of this section occurring before the expiration of the 20-year period beginning on the date that the project is placed in service, the recipient shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient from unduly benefiting from such sale or disposition.

(3) Exception A recipient shall not be required to comply with the terms and conditions prescribed under paragraphs (1) and (2) if the sale or disposition of the project results in the use of the project for the direct benefit of very low-income persons or if all of the proceeds are used to provide supportive housing meeting the requirements of this part.

(Pub. L. 100-77, title IV, Sec. 423, as added Pub. L. 102-550, title XIV, Sec. 1403(a), Oct. 28, 1992, 106 Stat. 4015.)

Prior Provisions

A prior section 11383, Pub. L. 100-77, title IV, Sec. 423, July 22, 1987, 101 Stat. 501; Pub. L. 100-628, title IV, Secs. 441(b), (c), 445(a), 446-448(a), 449, Nov. 7, 1988, 102 Stat. 3233, 3234; Pub. L. 101-625, title VIII, Sec. 833(c)-(e), (g), Nov. 28, 1990, 104 Stat. 4362, 4363, outlined types of assistance provided under the supportive housing demonstration program, prior to repeal by Pub. L. 102-550, Sec. 1403(a).

Section Referred to in Other Sections

This section is referred to in sections 11386, 11389 of this title.



## **Sec. 11384. Supportive housing**

(a) In general Housing providing supportive services for homeless individuals shall be considered supportive housing for purposes of this part if--

(1) the housing is safe and sanitary and meets any applicable State and local housing codes and licensing requirements in the jurisdiction in which the housing is located; and

(2) the housing--

(A) is transitional housing;

(B) is permanent housing for homeless persons with disabilities; or

(C) is, or is part of, a particularly innovative project for, or alternative methods of, meeting the immediate and long-term needs of homeless individuals and families.

(b) Transitional housing For purposes of this section, the term ``transitional housing" means housing, the purpose of which is to facilitate the movement of homeless individuals and families to permanent housing within 24 months or such longer period as the Secretary determines necessary. The Secretary may deny assistance for housing based on a violation of this subsection only if the Secretary determines that a substantial number of homeless individuals or families have remained in the housing longer than such period.

(c) Permanent housing for homeless persons with disabilities For purposes of this section, the term ``permanent housing for homeless persons with disabilities" means community-based housing for homeless persons with disabilities that provides long-term housing and supportive services for not more than--

(1) 8 such persons in a single structure or contiguous structures;

(2) 16 such persons, but only if not more than 20 percent of the units in a structure are designated for such persons; or

(3) more than 16 persons if the applicant demonstrates that local market conditions dictate the development of a large project and such development will achieve the neighborhood integration objectives of the program within the context of the affected community.

(d) Single room occupancy dwellings A project may provide supportive housing or supportive services in dwelling units that do not contain bathrooms or kitchen facilities and are appropriate for use as supportive housing or in projects containing some or all such dwelling units.

(Pub. L. 100-77, title IV, Sec. 424, as added Pub. L. 102-550, title XIV, Sec. 1403(a), Oct. 28, 1992, 106 Stat. 4016.)

#### Prior Provisions

A prior section 11384, Pub. L. 100-77, title IV, Sec. 424, July 22, 1987, 101 Stat. 501; Pub. L. 100-628, title IV, Secs. 442(b)(2), 448(b), 450(a)(1), (b), 451, Nov. 7, 1988, 102 Stat. 3233-3235; Pub. L. 101-625, title VIII, Sec. 833(f), (h)-(j), (k)(2), Nov. 28, 1990, 104 Stat. 4363-4365, provided for applications, selection criteria, and other program requirements for assistance under the supportive housing demonstration program, prior to repeal by Pub. L. 102-550, Sec. 1403(a).

#### Section Referred to in Other Sections

This section is referred to in section 11382 of this title.

### **Sec. 11385. Supportive services**

(a) In general To the extent practicable, each project shall provide supportive services for residents of the project and homeless persons using the project, which may be designed by the recipient or participants.

(b) Requirements Supportive services provided in connection with a project shall address the special needs of individuals (such as homeless persons with disabilities and homeless families with children) intended to be served by a project.

(c) Services Supportive services may include such activities as (A) establishing and operating a child care services program for homeless families, (B) establishing and operating an employment assistance program, (C) providing outpatient health services, food, and case management, (D) providing assistance in obtaining permanent housing, employment counseling, and nutritional counseling, (E) providing security arrangements necessary for the protection of residents of supportive housing and for homeless persons using the housing or project, (F) providing assistance in obtaining other Federal,

State, and local assistance available for such residents (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment), and (G) providing other appropriate services.

(d) Provision of services Services provided pursuant to this section may be provided directly by the recipient or by contract with other public or private service providers. Such services may be provided to homeless individuals who do not reside in supportive housing.

(e) Coordination with Secretary of Health and Human Services

(1) Approval Promptly upon receipt of any application for assistance under this part that includes the provision of outpatient health services, the Secretary of Housing and Urban Development shall consult with the Secretary of Health and Human Services with respect to the proposed outpatient health services. If, within 45 days of such consultation, the Secretary of Health and Human Services determines that the proposal for delivery of the outpatient health services does not meet guidelines for determining the appropriateness of such proposed services, the Secretary of Housing and Urban Development may require resubmission of the application, and the Secretary of Housing and Urban Development may not approve such portion of the application unless and until such portion has been resubmitted in a form that the Secretary of Health and Human Services determines meets such guidelines.

(2) Guidelines The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall jointly establish guidelines for determining the appropriateness of proposed outpatient health services under this section. Such guidelines shall include any provisions necessary to enable the Secretary of Housing and Urban Development to meet the time limits under this part for the final selection of applications for assistance.

(Pub. L. 100-77, title IV, Sec. 425, as added Pub. L. 102-550, title XIV, Sec. 1403(a), Oct. 28, 1992, 106 Stat. 4017.)

#### Prior Provisions

A prior section 11385, Pub. L. 100-77, title IV, Sec. 425, July 22, 1987, 101 Stat. 503; Pub. L. 100-628, title IV, Sec. 452, Nov. 7, 1988, 102 Stat. 3235; Pub. L. 101-625, title VIII, Sec. 833(k)(3), Nov.

28, 1990, 104 Stat. 4365, required recipients of assistance under supportive housing demonstration program to obtain an equal amount of funding from non-Federal sources, prior to repeal by Pub. L. 102-550, Sec. 1403(a).

#### Section Referred to in Other Sections

This section is referred to in sections 11382, 11389 of this title.

### **Sec. 11386. Program requirements**

#### (a) Applications

(1) Form and procedure Applications for assistance under this part shall be submitted by applicants in the form and in accordance with the procedures established by the Secretary. The Secretary may not give preference or priority to any application on the basis that the application was submitted by any particular type of applicant entity.

(2) Contents The Secretary shall require that applications contain at a minimum--

(A) a description of the proposed project, including the activities to be undertaken;

(B) a description of the size and characteristics of the population that would occupy the supportive housing assisted under this part;

(C) a description of the public and private resources that are expected to be made available for the project;

(D) in the case of projects assisted under section 11383(a)(1) or (2) of this title, assurances satisfactory to the Secretary that the project will be operated for not less than 20 years for the purpose specified in the application;

(E) in the case of projects assisted under this subchapter that do not receive assistance under such sections, annual assurances during the period specified in the application that the project will be operated for the purpose specified in the application for such period;

(F) a certification from the public official responsible for submitting the comprehensive housing affordability strategy under section 12705 of this title for the State or unit of general local government within which the project is located that the proposed

project is consistent with the approved housing strategy of such State or unit of general local government; and

(G) a certification that the applicant will comply with the requirements of the Fair Housing Act [42 U.S.C. 3601 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and will affirmatively further fair housing.

(3) Site control The Secretary shall require that each application include reasonable assurances that the applicant will own or have control of a site for the proposed project not later than the expiration of the 12-month period beginning upon notification of an award for grant assistance, unless the application proposes providing supportive housing assisted under section 11383(a)(3) of this title or housing that will eventually be owned or controlled by the families and individuals served. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If any recipient fails to obtain ownership or control of the site within 12 months after notification of an award for grant assistance, the grant shall be recaptured and reallocated under this part.

(b) Selection criteria The Secretary shall select applicants approved by the Secretary as to financial responsibility to receive assistance under this part by a national competition based on criteria established by the Secretary, which shall include--

- (1) the ability of the applicant to develop and operate a project;
- (2) the innovative quality of the proposal in providing a project;
- (3) the need for the type of project proposed by the applicant in the area to be served;
- (4) the extent to which the amount of assistance to be provided under this part will be supplemented with resources from other public and private sources;
- (5) the cost-effectiveness of the proposed project;
- (6) the extent to which the applicant has demonstrated coordination with other Federal, State, local, private and other entities serving homeless persons in the planning and operation of the project, to the extent practicable; and
- (7) such other factors as the Secretary determines to be appropriate to carry out this part in an effective and efficient manner.

(c) Required agreements The Secretary may not provide assistance for any project under this part unless the applicant agrees--

(1) to operate the proposed project in accordance with the provisions of this part;

(2) to conduct an ongoing assessment of the supportive services required by homeless individuals served by the project and the availability of such services to such individuals;

(3) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents and users of the project;

(4) to monitor and report to the Secretary on the progress of the project;

(5) to develop and implement procedures to ensure (A) the confidentiality of records pertaining to any individual provided family violence prevention or treatment services through any project assisted under this part, and (B) that the address or location of any family violence shelter project assisted under this part will not be made public, except with written authorization of the person or persons responsible for the operation of such project;

(6) to the maximum extent practicable, to involve homeless individuals and families, through employment, volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating the project assisted under this part and in providing supportive services for the project; and

(7) to comply with such other terms and conditions as the Secretary may establish to carry out this part in an effective and efficient manner.

(d) **Occupancy charge** Each homeless individual or family residing in a project providing supportive housing may be required to pay an occupancy charge in an amount determined by the recipient providing the project, which may not exceed the amount determined under section 1437a(a) of this title. Occupancy charges paid may be reserved, in whole or in part, to assist residents in moving to permanent housing.

(e) **Matching funding** Each recipient shall be required to supplement the amount of assistance provided under paragraphs (1) and (2) of section 11383(a) of this title with an equal amount of funds from sources other than this part.

(f) **Flood protection standards** Flood protection standards applicable to housing acquired, rehabilitated, constructed, or assisted under this part shall be no more restrictive than the standards applicable under Executive Order No. 11988 (May 24, 1977) to the other programs under this subchapter.

(g) Participation of homeless individuals The Secretary shall, by regulation, require each recipient to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any project, supportive services, or assistance provided under this part. The Secretary may grant waivers to applicants unable to meet the requirement under the preceding sentence if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(h) Limitation on use of funds No assistance received under this part (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist homeless persons.

(i) Limitation on administrative expenses No recipient may use more than 5 percent of a grant received under this part for administrative purposes.

(j) Termination of assistance If an individual or family who receives assistance under this part (not including residents of an emergency shelter) from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals receiving such assistance to due process of law, which may include a hearing.

(Pub. L. 100-77, title IV, Sec. 426, as added Pub. L. 102-550, title XIV, Sec. 1403(a), Oct. 28, 1992, 106 Stat. 4018.)

#### References in Text

The Fair Housing Act, referred to in subsec. (a)(2)(G), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (Sec. 3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (a)(2)(G), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (Sec. 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the

Code, see Short Title note set out under section 2000a of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (a)(2)(G), is title III of Pub. L. 94-135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (Sec. 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

Executive Order No. 11988, referred to in subsec. (f), is set out as a note under section 4321 of this title.

#### Prior Provisions

A prior section 11386, Pub. L. 100-77, title IV, Sec. 426, July 22, 1987, 101 Stat. 503, related to establishment of guidelines for purposes of a supportive housing demonstration program, prior to repeal by Pub. L. 102-550, Sec. 1403(a).

#### Section Referred to in Other Sections

This section is referred to in section 11382 of this title.

### **Sec. 11387. Regulations**

Not later than the expiration of the 90-day period beginning on October 28, 1992, the Secretary shall issue interim regulations to carry out this part, which shall take effect upon issuance. The Secretary shall issue final regulations to carry out this part after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5 (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

(Pub. L. 100-77, title IV, Sec. 427, as added Pub. L. 102-550, title XIV, Sec. 1403(a), Oct. 28, 1992, 106 Stat. 4021.)

#### Prior Provisions



A prior section 11387, Pub. L. 100-77, title IV, Sec. 427, July 22, 1987, 101 Stat. 504; Pub. L. 100-628, title IV, Sec. 453, Nov. 7, 1988, 102 Stat. 3236, provided for reports to Congress summarizing the activities carried out under the supportive housing demonstration program, prior to repeal by Pub. L. 102-550, Sec. 1403(a).

### **Sec. 11388. Reports to Congress**

The Secretary shall submit a report to the Congress annually, summarizing the activities carried out under this part and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 4 months after the end of each fiscal year (except that, in the case of fiscal year 1993, the report shall be submitted not later than 6 months after the end of the fiscal year).

(Pub. L. 100-77, title IV, Sec. 428, as added Pub. L. 102-550, title XIV, Sec. 1403(a), Oct. 28, 1992, 106 Stat. 4021.)

#### **Prior Provisions**

A prior section 11388, Pub. L. 100-77, title IV, Sec. 428, July 22, 1987, 101 Stat. 504; Pub. L. 100-628, title IV, Secs. 454, 455, Nov. 7, 1988, 102 Stat. 3236; Pub. L. 101-625, title VIII, Sec. 833(a), Nov. 28, 1990, 104 Stat. 4362, authorized appropriations for the supportive housing demonstration program, prior to repeal by Pub. L. 102-550, Sec. 1403(a).

### **Sec. 11389. Authorization of appropriations**

(a) Authorization of appropriations There are authorized to be appropriated to carry out this part \$204,000,000 for fiscal year 1993 and \$212,568,000 for fiscal year 1994.

(b) Set-asides Of any amounts appropriated to carry out this part--

(1) not less than 25 percent shall be allocated to projects designed primarily to serve homeless families with children;

(2) not less than 25 percent shall be allocated to projects designed primarily to serve homeless persons with disabilities; and

(3) not less than 10 percent shall be allocated for use only for providing supportive services under sections 11383(a)(5) and 11385 of this title, not provided in conjunction with supportive housing.

(c) Reallocations

If, following the receipt of applications for the final funding round under this part for any fiscal year, any amount set aside for assistance pursuant to subsection (b) of this section will not be required to fund the approvable applications submitted for such assistance, the Secretary shall reallocate such amount for other assistance pursuant to this part.

(Pub. L. 100-77, title IV, Sec. 429, as added Pub. L. 102-550, title XIV, Sec. 1403(a), Oct. 28, 1992, 106 Stat. 4021.)

**Sec. 11391. Establishment of demonstration**

(a) In general The Secretary may make grants to applicants to demonstrate the desirability and feasibility of providing very low-cost housing, to be known as safe havens, to homeless persons who, at the time, are unwilling or unable to participate in mental health treatment programs or to receive other supportive services.

(b) Purposes The demonstration program carried out under this part shall demonstrate--

(1) whether and on what basis eligible persons choose to reside in safe havens;

(2) the extent to which, after a period of residence in a safe haven, residents are willing to participate in mental health treatment programs, substance abuse treatment, or other treatment programs and to move toward a more traditional form of permanent housing and the availability in the community of such permanent housing and treatment programs;

(3) whether safe havens are cost-effective in comparison with other alternatives for eligible persons; and

(4) the various ways in which safe havens may be used to provide accommodations and low-demand services and referrals for eligible persons.

(Pub. L. 100-77, title IV, Sec. 431, as added Pub. L. 102-550, title XIV, Sec. 1404, Oct. 28, 1992, 106 Stat. 4022.)

#### Prior Provisions

A prior section 11391, Pub. L. 100-77, title IV, Sec. 431, July 22, 1987, 101 Stat. 504; Pub. L. 100-242, title V, Sec. 570(i)(2), Feb. 5, 1988, 101 Stat. 1950, provided definitions for a program of supplemental assistance for facilities to assist the homeless, prior to repeal by Pub. L. 102-550, Sec. 1403(a).

### **Sec. 11392. Definitions**

For purposes of this part:

(1) Applicant The term ``applicant" means a nonprofit corporation, public nonprofit organization, State, or unit of general local government.

(2) Eligible person The term ``eligible person" means an individual who--

(A) is seriously mentally ill and resides primarily in a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings, which may include occasional residence in an emergency shelter; and

(B) is currently unwilling or unable to participate in mental health or substance abuse treatment programs or to receive other supportive services.

Such term does not include a person whose sole impairment is substance abuse.

(3) Facility The term ``facility" means a structure or a clearly identifiable portion of a structure that is assisted under this part.

(4) Low-demand services and referrals The term "low-demand services and referrals" means the provision of health care, mental health, substance abuse, and other supportive services and referrals for services in a noncoercive manner, which may include medication management, education, counseling, job training, and assistance in obtaining entitlement benefits and in obtaining other supportive services including mental health treatment and substance abuse treatment.

(5) Nonprofit organization The term "nonprofit organization" means an organization--

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) that has a voluntary board;

(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

(D) that practices nondiscrimination in the provision of assistance.

(6) Operating costs The term "operating costs" means expenses incurred by a recipient operating a safe haven under this part with respect to--

(A) the operation of the facility, including the cost of 24-hour management, and maintenance, repair, and security;

(B) utilities, fuel, furnishings, and equipment for such housing; and

(C) other reasonable costs necessary to the operation of the facility, which may include appropriate outreach and drop-in services.

(7) Recipient The term "recipient" means an applicant that receives assistance under this part.

(8) Safe haven The term "safe haven" means a facility--

(A) that provides 24-hour residence for eligible persons who may reside for an unspecified duration;

(B) that provides private or semiprivate accommodations;

(C) that may provide for the common use of kitchen facilities, dining rooms, and bathrooms;

(D) that may provide supportive services to eligible persons who are not residents on a drop-in basis; and

(E) in which overnight occupancy is limited to no more than 25 persons.

(9) Secretary The term ``Secretary'' means the Secretary of Housing and Urban Development.

(10) Seriously mentally ill The term ``seriously mentally ill'' means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

(11) State The term ``State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau.

(12) Unit of general local government The term ``unit of general local government'' has the meaning given the term in section 5302(a) of this title.

(Pub. L. 100-77, title IV, Sec. 432, as added Pub. L. 102-550, title XIV, Sec. 1404, Oct. 28, 1992, 106 Stat. 4022.)

#### Prior Provisions

A prior section 11392, Pub. L. 100-77, title IV, Sec. 432, July 22, 1987, 101 Stat. 505; Pub. L. 100-628, title IV, Secs. 461-463(a), Nov. 7, 1988, 102 Stat. 3236, 3237; Pub. L. 101-625, title VIII, Sec. 834(b)-(d), Nov. 28, 1990, 104 Stat. 4365, 4366, provided for supplemental assistance for facilities to assist the homeless, prior to repeal by Pub. L. 102-550, Sec. 1403(a).

### **Sec. 11393. Program assistance**

#### (a) In general

(1) Eligible activities The Secretary may provide assistance with respect to a program under this part for the following activities:

(A) The construction of a structure for use in providing a safe haven or the acquisition, rehabilitation, or acquisition and rehabilitation of an existing structure for use in providing a safe haven.

(B) The leasing of an existing structure for use in providing a safe haven.

(C) To cover the operating costs of a safe haven.

(D) To cover the costs of administering a safe haven program, not to exceed 10 percent of the amounts made available for activities under subparagraphs (A) through (C).

(E) Outreach activities designed to inform eligible persons about and attract them to a safe haven program.

(F) The provision of low-demand services and referrals for residents of a safe haven, except that grants under this part may not be used to cover more than 50 percent of the cost of such services and referrals.

(G) Other activities that further the purposes of this part, including the modification of an existing facility to use a portion of the facility to provide with a safe haven.

(2) Period of assistance Assistance may be provided to any safe haven program for activities under subparagraphs (B) through (F) of paragraph (1) for a period of not more than 5 years, except that the Secretary may, upon application by the recipient, provide assistance for an additional period of time, not to exceed 5 years, subject to--

(A) the determination of the Secretary that the performance of the recipient under this part is satisfactory; and

(B) the availability of appropriations for such purpose.

(3) Limit on amount The total amount of assistance provided to any recipient under this subsection may not exceed \$400,000 in any 5-year period.

#### (b) Matching funding

(1) In general Each recipient shall supplement a grant provided under this part with an equal amount of funds from sources other than this part. Each recipient shall certify to the Secretary that it has complied with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

(2) Calculation of amounts In calculating the amount of supplemental funds required under paragraph (1), a recipient may include any funds derived from another source, the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers, at a rate determined by the Secretary, to carry out the program of the recipient.

(Pub. L. 100-77, title IV, Sec. 433, as added Pub. L. 102-550, title XIV, Sec. 1404, Oct. 28, 1992, 106 Stat. 4024.)

#### Prior Provisions

A prior section 11393, Pub. L. 100-77, title IV, Sec. 433, July 22, 1987, 101 Stat. 507, related to establishment of regulations for program to provide supplemental assistance for facilities to assist the homeless, prior to repeal by Pub. L. 102-550, Sec. 1403(a).

#### Section Referred to in Other Sections

This section is referred to in section 11394 of this title.

### **Sec. 11394. Program requirements**

#### (a) Applications

Applications for assistance under this part shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish, and such applications shall contain at a minimum--

- (1) a description of the proposed facility;
- (2) a description of the number and characteristics of the eligible persons expected to occupy the safe haven;
- (3) a plan for identifying and selecting eligible persons to participate;
- (4) a program plan, containing a description of the method--
  - (A) of operation of the facility, including staffing plans and facility rules;
  - (B) by which the applicant will secure supportive services for residents of the safe haven;
  - (C) by which the applicant will monitor the willingness of residents to engage in treatment programs and other supportive services;
  - (D) by which access to supportive services will be secured for residents willing to use them;

(E) by which access to permanent housing with appropriate services, such as the Shelter Plus Care program under part F of this subchapter, will be sought after residents are stabilized; and

(F) by which the applicant will conduct outreach activities to facilitate the entrance of eligible persons into the safe haven;

(5) a plan to ensure that adequate security precautions are taken to make the facility safe for the residents;

(6) an estimate of program costs;

(7) a description of the resources that are expected to be made available in accordance with section 11393(b) of this title;

(8) assurances satisfactory to the Secretary that the facility will have 24-hour, on-site management, if practicable;

(9) assurances satisfactory to the Secretary that the facility will be operated for the purpose specified in the application for each year in which assistance is provided under this part;

(10) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 12705 of this title for the State or unit of general local government within which the facility is located that the proposed activities are consistent with the approved housing strategy for such jurisdiction;

(11) a certification that the applicant will comply with the requirements of the Fair Housing Act [42 U.S.C. 3601 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and will affirmatively further fair housing;

(12) a plan for program evaluation based on information that is collected on a periodic basis regarding the characteristics of the residents, including their movement in and out of the safe haven, their willingness to use low-demand services and referrals, the availability and quality of services used, and the movement of residents toward a more traditional form of permanent housing after a period of residency in the safe haven; and

(13) such other information as the Secretary may require.

#### (b) Site control

The Secretary shall require that an applicant furnish reasonable assurances that the applicant will have control of a site for the proposed facility not later than 1 year after notification of an award of assistance under this part. If an applicant fails to obtain control of the



site within this period, the grant shall be recaptured by the Secretary and reallocated for use under this part.

(c) Selection criteria

The Secretary shall establish selection criteria for selecting applicants to receive assistance under this part pursuant to a national competition, which shall include--

(1) the extent to which the applicant demonstrates the ability to develop and operate a safe haven;

(2) the extent to which there is a need for a safe haven in the jurisdiction in which the facility will be located;

(3) the extent to which the program would link eligible persons to permanent housing and supportive services after stabilization in a safe haven;

(4) the cost-effectiveness of the proposed program;

(5) providing for geographical diversity among applicants selected to receive assistance;

(6) the extent to which the safe haven would meet the need of the eligible persons proposed to be served by the safe haven; and

(7) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established under this part in an effective and efficient manner.

(d) Required agreements

The Secretary may not provide assistance under this part for any safe haven program unless the applicant agrees--

(1) to develop and operate the proposed facility as a safe haven in accordance with the provisions of this part;

(2) to ensure that the facility meets any standards of habitability established by the Secretary;

(3) to provide low-demand services and referrals for the residents of the safe haven;

(4) to prohibit the use of illegal drugs and alcohol in the facility;

(5) to ensure that adequate security precautions are taken to make the facility safe for the residents;

(6) not to establish limitations on the duration of residency;

(7) not to require participation in low-demand services and referrals as a condition of occupancy;

(8) to monitor and report to the Secretary on progress in carrying out the safe haven program;

(9) to the maximum extent practicable, to involve eligible persons, through employment, volunteer services, or otherwise, in

renovating, maintaining, and operating facilities assisted under this part and in providing services assisted under this part;

(10) to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such recipient (in accordance with regulations that the Secretary shall issue), to the extent that such entity considers and makes policies and decisions regarding any facility or services assisted under this part, or to otherwise provide for the consultation and participation of such an individual in considering and making such policies and decisions; and

(11) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program established under this part in an effective and efficient manner. The Secretary may waive the applicability of the requirement under paragraph (10) for an applicant that is unable to meet such requirement, if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(Pub. L. 100-77, title IV, Sec. 434, as added Pub. L. 102-550, title XIV, Sec. 1404, Oct. 28, 1992, 106 Stat. 4025.)

#### References in Text

The Fair Housing Act, referred to in subsec. (a)(11), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (Sec. 3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (a)(11), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (Sec. 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (a)(11), is title III of Pub. L. 94-135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (Sec. 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

#### Prior Provisions

A prior section 11394, Pub. L. 100-77, title IV, Sec. 434, July 22, 1987, 101 Stat. 508; Pub. L. 100-628, title IV, Sec. 464, Nov. 7, 1988, 102 Stat. 3237; Pub. L. 101-625, title VIII, Sec. 834(a), Nov. 28, 1990, 104 Stat. 4365, authorized appropriations for supplemental assistance for facilities to assist the homeless, prior to repeal by Pub. L. 102-550, Sec. 1403(a).

### **Sec. 11395. Occupancy charge**

Each eligible person who resides in a facility assisted under this part shall pay an occupancy charge in an amount determined by the recipient, but not to exceed the amount determined under section 1437a(a) of this title. The occupancy charge may be phased in or reduced based on the type of living accommodations provided. The recipient may waive occupancy charges for limited periods of time for residents unwilling or unable to pay them. Occupancy charges paid may be reserved to assist residents in moving to a more traditional form of permanent housing.

(Pub. L. 100-77, title IV, Sec. 435, as added Pub. L. 102-550, title XIV, Sec. 1404, Oct. 28, 1992, 106 Stat. 4027.)

### **Sec. 11396. Termination of assistance**

If an eligible person who resides in a safe haven or who receives low-demand services or referrals endangers the safety, welfare, or health of other residents, or repeatedly violates a condition of occupancy contained in the rules for the safe haven (as set forth in the application submitted under this part), the recipient may terminate such residency or assistance in accordance with a formal process established by the rules for the safe haven, which may include a hearing.

(Pub. L. 100-77, title IV, Sec. 436, as added Pub. L. 102-550, title XIV, Sec. 1404, Oct. 28, 1992, 106 Stat. 4027.)

## **Sec. 11397. Evaluation and report**

The Secretary shall conduct an evaluation of the safe haven demonstration program under this part and shall submit a report to the Congress, not later than December 31, 1994, which shall set forth the findings of the Secretary as a result of the evaluation.

(Pub. L. 100-77, title IV, Sec. 437, as added Pub. L. 102-550, title XIV, Sec. 1404, Oct. 28, 1992, 106 Stat. 4027.)

## **Sec. 11398. Regulations**

(a) In general The Secretary shall, by notice published in the Federal Register, establish such requirements as may be necessary to carry out the amendments made by this part.

(b) Consultation In establishing requirements to carry out the provisions of this part, and in considering applications under this part, the Secretary shall consult with officials of the appropriate agencies of the Department of Health and Human Services and with representative provider and public interest groups.

(c) Eligibility for SSI and medicaid

(1) Supplemental security income All provisions of the Supplemental Security Income program under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] and of State programs in supplementation thereof shall apply to participants in the safe havens demonstration program under this part, except that no individual living in a safe haven shall--

(A) be considered an inmate of a public institution (as provided in section 1611(e)(1)(A) of such Act [42 U.S.C. 1382(e)(1)(A)]); or

(B) have benefits under such title XVI [42 U.S.C. 1381 et seq.] reduced or terminated because of the receipt of support and maintenance (as provided in section 1612(a)(2)(A) of such Act [42 U.S.C. 1382a(a)(2)(A)]), to the extent such support and maintenance

is received as a result of participation in the safe havens demonstration program.

## (2) Medicaid

A safe haven shall not be considered a hospital, nursing facility, institution for mental disease as defined under section 1905(i) of the Social Security Act [42 U.S.C. 1396d(i)], or any other inpatient facility, for purposes of the program under title XIX of such Act [42 U.S.C. 1396 et seq.], and individuals shall not be denied eligibility for medicaid because of residency in such residence.

(Pub. L. 100-77, title IV, Sec. 438, as added Pub. L. 102-550, title XIV, Sec. 1404, Oct. 28, 1992, 106 Stat. 4027.)

## References in Text

The Social Security Act, referred to in subsec. (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVI and XIX of the Act are classified generally to subchapters XVI (Sec. 1381 et seq.) and XIX (Sec. 1396 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

## **Sec. 11399. Authorization of appropriations**

There are authorized to be appropriated to carry out this part \$62,000,000 for fiscal year 1993 and \$64,604,000 for fiscal year 1994.

(Pub. L. 100-77, title IV, Sec. 439, as added Pub. L. 102-550, title XIV, Sec. 1404, Oct. 28, 1992, 106 Stat. 4028.)

## **Sec. 11401. Section 1437f assistance for single room occupancy dwellings**

(a) Increase in budget authority The budget authority available under section 1437c(c) of this title for assistance under section 1437f(e)(2) \1\ of this title is authorized to be increased by \$105,000,000 on or after October 1, 1992, and by \$109,410,000 on or after October 1, 1993.

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\1\ See References in Text note below.  
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(b) Use of funds

The amounts made available under this section shall be used only in connection with the moderate rehabilitation of housing described in section 1437f(n) \1\ of this title for occupancy by homeless individuals, except that amounts made available under this section may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating such units.,\2\ and except that the Secretary may provide amounts available under this section to private nonprofit organizations that submit applications for such assistance that are approved by the Secretary.

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\2\ So in original. The period before the comma probably should not appear.  
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(c) Allocation

The amounts made available under this section shall be allocated by the Secretary of Housing and Urban Development on the basis of a national competition to the applicants that best demonstrate a need for the assistance under this section and the ability to undertake and carry out a program to be assisted under this section. To be considered for assistance under this section, an applicant shall submit to the Secretary of Housing and Urban Development a written proposal containing--

(1) a description of the size and characteristics of the population within the applicant's jurisdiction that would occupy single room occupancy dwellings;

(2) a listing of additional commitments from public and private sources that the applicant might be able to provide in connection with the program;

(3) an inventory of suitable housing stock to be rehabilitated with such assistance;

(4) a description of the interest that has been expressed by builders, developers, and others (including profit and nonprofit organizations) in participating in the program; and

(5) assurances satisfactory to the Secretary that the applicant, to the maximum extent practicable, will involve homeless individuals and families, through employment, volunteer services, or otherwise, in rehabilitating and operating facilities assisted under this section and in providing services for occupants of such facilities.

No single city or urban county shall be eligible to receive more than 10 percent of the assistance made available under this section.

(d) Fire and safety improvements Each contract for housing assistance payments entered into with the authority provided under this section shall require the installation of a sprinkler system that protects all major spaces, hard wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this subsection, the term "major spaces" means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

(e) Cost limitation

(1) The total cost of rehabilitation that may be compensated for in a contract for housing assistance payments entered into with the authority provided under this section shall not exceed \$14,000 per unit, plus the expenditures required by subsection (d) of this section.

(2) The Secretary of Housing and Urban Development shall increase the limitation contained in paragraph (1) by an amount the Secretary determines is reasonable and necessary to accommodate special local conditions, including--

(A) high construction costs; or

(B) stringent fire or building codes.

(3) The Secretary of Housing and Urban Development shall increase the limitation in paragraph (1) on October 1 of each year by an amount necessary to take into account increases in construction costs during the previous 12-month period.

(f) Contract requirements

Each contract for annual contributions entered into with a \3\ approved applicant to obligate the authority made available under this section shall—

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\3\ So in original. Probably should be ``an".  
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(1) commit the Secretary of Housing and Urban Development to make such authority available to the approved applicant for an aggregate period of 10 years, and require that any amendments increasing such authority shall be available for the remainder of such 10-year period;

(2) provide the Secretary of Housing and Urban Development with the option to renew the contract for an additional period of 10 years, subject to the availability of appropriations; and

(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this section shall be given to homeless individuals.

(g) Repealed. Pub. L. 104-330, title V, Sec. 506(a)(8)(A), Oct. 26, 1996, 110 Stat. 4044

(h) Participation of homeless individuals The Secretary shall, by regulation, require each approved applicant receiving assistance under this section that is not a public housing agency to provide for the participation of not less than one homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such applicant, to the extent that such entity considers and makes policies and decisions regarding the rehabilitation of any housing with assistance under this section. The Secretary may grant waivers to approved applicants unable to meet the requirements under the preceding sentence if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(i) Termination of assistance

If an individual or family who receives assistance under this section violates program requirements, the recipient of amounts made available under this section may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals receiving such assistance to due process of law.

(j) Definitions For purposes of this section--



(1) the term "applicant" means a public housing agency, or private nonprofit organization that applies for assistance under this section; and

(2) the term "private nonprofit organization" means an organization--

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) that has a voluntary board;

(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

(D) that practices nondiscrimination in the provision of assistance.

(Pub. L. 100-77, title IV, Sec. 441, July 22, 1987, 101 Stat. 508; Pub. L. 100-628, title IV, Sec. 481(a)-(d)(1), Nov. 7, 1988, 102 Stat. 3237, 3238; Pub. L. 101-625, title VIII, Sec. 835, Nov. 28, 1990, 104 Stat. 4366; Pub. L. 102-550, title XIV, Sec. 1405(a)-(d), Oct. 28, 1992, 106 Stat. 4028, 4029; Pub. L. 104-330, title V, Sec. 506(a)(8), Oct. 26, 1996, 110 Stat. 4044.)

## References in Text

Section 1437f(e)(2) of this title, referred to in subsec. (a), was repealed effective Oct. 1, 1991, but to remain in effect with respect to single room occupancy dwellings as authorized by this subchapter, see section 12839(b) of this title.

Section 1437f(n) of this title, referred to in subsec. (b), was repealed by Pub. L. 105-276, title V, Sec. 550(a)(7), Oct. 21, 1998, 112 Stat. 2609.

## Amendments

1996--Subsec. (g). Pub. L. 104-330, Sec. 506(a)(8)(A), struck out heading and text of subsec. (g). Text read as follows: "Amounts made available for assistance under this section shall be available through contracts between the Secretary and Indian housing authorities, and the provisions of this section regarding public housing authorities shall include and apply to Indian housing authorities."

Subsec. (h). Pub. L. 104-330, Sec. 506(a)(8)(B), struck out "or Indian housing authority" after "public housing agency".

Subsec. (j)(1). Pub. L. 104-330, Sec. 506(a)(8)(C), struck out "Indian housing authority" after "public housing agency".

1992--Subsec. (a). Pub. L. 102-550, Sec. 1405(a), amended subsec.

(a) generally. Prior to amendment, subsec. (a) read as follows: ``The budget authority available under section 1437c(c) of this title for assistance under section 1437f(e)(2) of this title is authorized to be increased by \$79,000,000 on or after October 1, 1990, and by \$82,400,000 on or after October 1, 1991."

Subsec. (b). Pub. L. 102-550, Sec. 1405(b)(1), inserted before period at end `` , and except that the Secretary may provide amounts available under this section to private nonprofit organizations that submit applications for such assistance that are approved by the Secretary".

Subsec. (c)(5). Pub. L. 102-550, Sec. 1405(c), added par. (5).

Subsec. (f). Pub. L. 102-550, Sec. 1405(b)(2), substituted ``approved applicant" for ``public housing agency" in introductory provisions and par. (1).

Subsecs. (h), (i). Pub. L. 102-550, Sec. 1405(d), added subsecs. (h) and (i).

Subsec. (j). Pub. L. 102-550, Sec. 1405(b)(3), added subsec. (j).

1990--Subsec. (a). Pub. L. 101-625, Sec. 835(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ``The budget authority available under section 1437c(c) of this title for assistance under section 1437f(e)(2) of this title is authorized to be increased by \$50,000,000 on or after October 1, 1988, and by \$50,000,000 on or after October 1, 1989."

Subsec. (g). Pub. L. 101-625, Sec. 835(b), added subsec. (g).

1988--Subsec. (a). Pub. L. 100-628, Sec. 481(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ``The budget authority available under section 1437c(c) of this title for assistance under section 1437f(e)(2) of this title is authorized to be increased by \$35,000,000 on or after October 1, 1986, and by \$35,000,000 on or after October 1, 1987."

Subsec. (b). Pub. L. 100-628, Sec. 481(b), inserted before period at end `` , except that amounts made available under this section may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating such units."

Subsec. (d). Pub. L. 100-628, Sec. 481(c), inserted sentence defining ``major spaces".

Subsec. (e)(3). Pub. L. 100-628, Sec. 481(d)(1), added par. (3).

Effective Date of 1996 Amendment

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104-330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years thereafter, see section 506(c) of Pub. L. 104-330, set out as a note under section 11371 of this title.

#### Effective Date of 1988 Amendment

Section 481(d)(2) of Pub. L. 100-628 provided that: ``The first increase under the amendment made by paragraph (1) [amending this section] shall be effective with respect to assistance provided on or after October 1, 1988."

### **Sec. 11402. Administrative provisions**

The provisions of, and regulations and procedures applicable under, section 5304(g) of this title shall apply to assistance and projects under this subchapter.

(Pub. L. 100-77, title IV, Sec. 443, as added Pub. L. 100-628, title IV, Sec. 482(a), Nov. 7, 1988, 102 Stat. 3238.)

### **Sec. 11403. Purpose**

The purpose of the program authorized under this part is to provide rental housing assistance, in connection with supportive services funded from sources other than this part, to homeless persons with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the families of such persons.

(Pub. L. 100-77, title IV, Sec. 451, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4367.)

## Establishment of Requirements by Notice; Issuance of Regulations

Section 837(b) of Pub. L. 101-625 provided that: ``Not later than 180 days after the date funds authorized under section 459 of the Stewart B. McKinney Homeless Assistance Act [section 11403h of this title], as amended by this section, first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of subtitle F of that Act [this part]. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the eight-month period following the date of the notice. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice. In developing program guidelines and regulations to implement such subtitle, the Secretary of Housing and Urban Development may consult with the Secretary of Health and Human Services with respect to supportive services aspects of this subtitle [subtitle C (Secs. 821-841) of title VIII of Pub. L. 101-625, see Tables for classification]."

### **Sec. 11403a. Rental housing assistance**

(a) In general The Secretary is authorized, in accordance with the provisions of this subpart, to provide rental housing assistance under subparts II, III, IV, and V of this part.

(b) Funding limitations To the maximum extent practicable, the Secretary shall reserve not less than 50 percent of all funds provided under this part for homeless individuals who are seriously mentally ill or have chronic problems with alcohol, drugs, or both.

(Pub. L. 100-77, title IV, Sec. 452, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4367; amended Pub. L. 102-550, title XIV, Sec. 1406(g)(2), Oct. 28, 1992, 106 Stat. 4034.)

## Amendments

1992--Subsec. (a). Pub. L. 102-550 substituted ``IV, and V'' for ``and IV''.

## **Sec. 11403b. Supportive services requirements**

### **(a) Matching funding**

(1) In general Each recipient shall be required to supplement the assistance provided under this part with an equal amount of funds for supportive services from sources other than this part. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

(2) Determination of matching amounts In calculating the amount of supplemental funds provided under this part, a recipient may include the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

(b) Recapture If the supportive services and funding for the supportive services required by this section are not provided, the Secretary may recapture any unexpended housing assistance.

(Pub. L. 100-77, title IV, Sec. 453, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4367.)

### **Section Referred to in Other Sections**

This section is referred to in section 11403c of this title.

## **Sec. 11403c. Applications**

(a) In general An application for rental housing assistance under this part shall be submitted by an applicant in such forms and in accordance with such procedures as the Secretary shall establish.

(b) Minimum contents The Secretary shall require that an application identify the need for the assistance in the community to be served and shall contain at a minimum--

(1) a request for housing assistance under subpart II, III, IV, or V of this part, or a combination, specifying the number of units requested and the amount of necessary budget authority;

(2) a description of the size and characteristics of the population of eligible persons;

(3) an identification of the need for the program in the community to be served;

(4) the identity of the proposed service provider or providers (which may be, or include, the applicant) and a statement of the qualifications of the provider or providers;

(5) a description of the supportive services that the applicant proposes to assure will be available for eligible persons;

(6) a description of the resources that are expected to be made available to provide the supportive services required by section 11403b of this title;

(7) a description of the mechanisms for developing a housing and supportive services plan for each person and for monitoring each person's progress in meeting that plan;

(8) reasonable assurances satisfactory to the Secretary that the supportive services will be provided for the full term of the housing assistance under subpart II, III, IV, or V of this part, or a combination; and a certification from the applicant that it will fund the supportive services itself if the planned resources do not become available for any reason;

(9) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 12705 of this title that the proposed activities are consistent with the approved housing strategy of the unit of general local government within which housing assistance under this part will be provided;

(10) a plan for--

(A) in the case of rental housing assistance under subpart II,\1\ or III of this part, providing housing assistance;

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\\1\ So in original. The comma probably should not appear.  
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(B) identifying and selecting eligible persons to participate, including a proposed definition of the term ``chronic problems with alcohol, other drugs, or both'';

(C) coordinating the provision of housing assistance and supportive services;

(D) ensuring that the service providers are providing supportive services adequate to meet the needs of the persons served;

(E) obtaining participation of eligible persons who have previously not been assisted under programs designed to assist the homeless or have been considered not capable of participation in these programs; this plan shall specifically address how homeless persons, as defined in section 11302(a)(2)(C) of this title, (and the families of such persons) will be brought into the program;

(11) in the case of housing assistance under subpart V of this part, identification of the specific structures that the recipient is proposing for assistance; and

(12) in the case of housing assistance under subpart IV of this part, identification of the nonprofit entity that will be the owner or lessor of the property, and identification of the specific structures in which the nonprofit entity proposes to house eligible persons.

(Pub. L. 100-77, title IV, Sec. 454, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4367; amended Pub. L. 102-550, title XIV, Sec. 1406(g)(3), Oct. 28, 1992, 106 Stat. 4034.)

## Amendments

1992--Subsec. (b)(1), (8). Pub. L. 102-550, Sec. 1406(g)(3)(A), (B), substituted ``IV, or V'' for ``or IV''.

Subsec. (b)(10)(A). Pub. L. 102-550, Sec. 1406(g)(3)(C), inserted `` , or III'' after ``subpart II''.

Subsec. (b)(11). Pub. L. 102-550, Sec. 1406(g)(3)(D), substituted ``subpart V of this part'' for ``subpart III of this part'' and ``proposing for assistance'' for ``proposing for rehabilitation and assistance''.

## Sec. 11403d. Selection criteria

(a) In general

The Secretary shall establish selection criteria for a national competition for assistance under this part, which shall include--

(1) the ability of the applicant to develop and operate the proposed assisted housing and supportive services program, taking into account the quality of any ongoing program of the applicant;

(2) geographic diversity among the projects to be assisted;

(3) the need for a program providing housing assistance and supportive services for eligible persons in the area to be served;

(4) the quality of the proposed program for providing supportive services and housing assistance;

(5) the extent to which the proposed funding for the supportive services is or will be available;

(6) the extent to which the project would meet the needs of the homeless persons proposed to be served by the program;

(7) the extent to which the program integrates program recipients into the community served by the program;

(8) the cost-effectiveness of the proposed program; and

(9) such other factors as the Secretary specifies in regulations to be appropriate for purposes of carrying out the program established by this part in an effective and efficient manner.

(b) Funding limitation No more than 10 percent of the assistance made available under this part for any fiscal year may be used for programs located within any one unit of general local government.

(c) Participation of homeless individuals The Secretary shall, by regulation, require each recipient to provide for the consultation and participation of not less than one homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any housing assisted under this part or services for such housing. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(Pub. L. 100-77, title IV, Sec. 455, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4369; amended Pub. L. 102-550, title XIV, Sec. 1406(b), Oct. 28, 1992, 106 Stat. 4030.)

Amendments



1992--Subsec. (c). Pub. L. 102-550 added subsec. (c).

### **Sec. 11403e. Required agreements**

The Secretary may not approve assistance under this part unless the applicant agrees--

(1) to operate the proposed program in accordance with the provisions of this part;

(2) to conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;

(3) to assure the adequate provision of supportive services to the participants in the program;

(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner; and

(5) to the maximum extent practicable, to involve homeless individuals and families, through employment volunteer services, or otherwise, in constructing or rehabilitating housing assisted under this part and in providing services required under this part.

(Pub. L. 100-77, title IV, Sec. 456, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4369; amended Pub. L. 102-550, title XIV, Sec. 1406(c), Oct. 28, 1992, 106 Stat. 4030.)

### **Amendments**

1992--Par. (5). Pub. L. 102-550 added par. (5).

### **Sec. 11403e-1. Housing standards and rent reasonableness**

(a) Standards required The Secretary shall require that--

(1) before any assistance may be provided to or on behalf of the person, each unit shall be inspected by the applicant directly or by another entity, including the local public housing agency, to determine

that the unit meets the housing quality standards under section 1437f of this title and that the occupancy charge for the dwelling unit is reasonable; and

(2) the recipient shall make at least annual inspections of each unit during the contract term.

(b) Prohibition No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner promptly corrects the deficiency and the recipient verifies the correction.

(Pub. L. 100-77, title IV, Sec. 457, formerly Sec. 464, as added Pub.L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4371; renumbered Sec. 457 and amended Pub. L. 102-550, title XIV, Sec. 1406(e)(4), Oct. 28, 1992, 106 Stat. 4031.)

#### Codification

Section was formerly classified to section 11404c of this title prior to renumbering by Pub. L. 102-550.

#### Amendments

1992--Subsec. (a)(1). Pub. L. 102-550 struck out `` (or if no such agency exists in the applicable area, an entity selected by the Secretary)" after ``public housing agency".

### **Sec. 11403e-2. Tenant rent**

Each tenant shall pay as rent an amount determined in accordance with the provisions of section 1437a(a)(1) of this title.

(Pub. L. 100-77, title IV, Sec. 458, formerly Sec. 465, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4372; renumbered Sec. 458, Pub. L. 102-550, title XIV, Sec. 1406(e)(5), Oct. 28, 1992, 106 Stat. 4031.)

#### Codification

Section was formerly classified to section 11404d of this title prior to renumbering by Pub. L. 102-550.

### **Sec. 11403e-3. Administrative fees**

From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the entity administering the housing assistance an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

(Pub. L. 100-77, title IV, Sec. 459, formerly Sec. 466, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4372; renumbered Sec. 459, Pub. L. 102-550, title XIV, Sec. 1406(e)(5), Oct. 28, 1992, 106 Stat. 4031.)

#### **Codification**

Section was formerly classified to section 11404e of this title prior to renumbering by Pub. L. 102-550.

### **Sec. 11403e-4. Occupancy**

(a) **Occupancy agreement** The occupancy agreement between a tenant and an owner of a dwelling unit assisted under this part shall be for at least one month.

(b) **Vacancy payments** If an eligible person vacates a dwelling unit assisted under this part before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month that follows the month during which the unit was vacated, unless it is occupied by another eligible person.

(Pub. L. 100-77, title IV, Sec. 460, as added Pub. L. 102-550, title XIV, Sec. 1406(e)(6), Oct. 28, 1992, 106 Stat. 4031.)

## **Sec. 11403f. Termination of assistance**

(a) Authority If an eligible individual who receives assistance under this part violates program requirements, the recipient may terminate assistance in accordance with the process established pursuant to subsection (b) of this section.

(b) Procedure In terminating assistance under this section, the recipient shall provide a formal process that recognizes the rights of individuals receiving such assistance to due process of law.

(Pub. L. 100-77, title IV, Sec. 461, formerly Sec. 457, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4369; renumbered Sec. 461, Pub. L. 102-550, title XIV, Sec. 1406(e)(1), Oct. 28, 1992, 106 Stat. 4031.)

### **Prior Provisions**

A prior section 461 of Pub. L. 100-77 was classified to section 11404 of this title prior to repeal by Pub. L. 102-550.

## **Sec. 11403g. Definitions**

For purposes of this part:

(1) The term ``acquired immunodeficiency syndrome and related diseases'' has the meaning given such term in section 12902 of this title.

(2) The term ``applicant'' means a State, unit of general local government or public housing agency.

(3) The term ``eligible person'' means a homeless person with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the family of such a person.

(4) Repealed. Pub. L. 104-330, title V, Sec. 506(a)(9)(B), Oct. 26, 1996, 110 Stat. 4045.

(5) The term ``nonprofit organization" has the meaning given such term by section 12704 of this title, and includes community mental health centers established as public nonprofit organizations.

(6) The term ``person with disabilities" has the same meaning given the term in section 8013 of this title.

(7) The term ``public housing agency" has the meaning given such term in section 1437a(b)(6) of this title.

(8) The term ``recipient" means an applicant approved for participation in the program authorized under this part.

(9) The term ``Secretary" means the Secretary of Housing and Urban Development.

(10) The term ``seriously mentally ill" means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

(11) The term ``State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(12) The term ``supportive services" means assistance that the Secretary determines (A) addresses the special needs of eligible persons; and (B) provides appropriate services or assists such persons in obtaining appropriate services, including health care, mental health services, substance and alcohol abuse services, child care services, case management services, counseling, supervision, education, job training, and other services essential for achieving and maintaining independent living. Inpatient acute hospital care shall not qualify as a supportive service.

(13) The term ``unit of general local government" has the meaning given such term in section 5302 of this title.

(Pub. L. 100-77, title IV, Sec. 462, formerly Sec. 458, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4369; renumbered Sec. 462 and amended Pub. L. 102-550, title XIV, Sec. 1406(e)(2), Oct. 28, 1992, 106 Stat. 4031; Pub. L. 104-330, title V, Sec. 506(a)(9), Oct. 26, 1996, 110 Stat. 4045.)

## Prior Provisions

A prior section 462 of Pub. L. 100-77 was renumbered section 472 and is classified to section 11404a of this title.

## Amendments

1996--Par. (2). Pub. L. 104-330, Sec. 506(a)(9)(A), struck out `` , Indian tribe," after ``local government".

Par. (4). Pub. L. 104-330, Sec. 506(a)(9)(B), struck out par. (4) which read as follows: ``The term `Indian tribe' has the meaning given such term in section 5302 of this title."

1992--Par. (2). Pub. L. 102-550, Sec. 1406(e)(2)(A), added par. (2) and struck out former par. (2) which read as follows: ``The term `applicant' means--

``(A) in the case of rental housing assistance under subparts II and IV of this part, a State, unit of general local government, or Indian tribe; and

``(B) in the case of single room occupancy housing under the section 8 moderate rehabilitation program under subpart III of this part (i) a State, unit of general local government, or Indian tribe (that shall be responsible for assuring the provision of supportive services and the overall administration of the program), and (ii) a public housing agency (that shall be primarily responsible for administering the housing assistance under subpart III of this part)."

Par. (5). Pub. L. 102-550, Sec. 1406(e)(2)(B), inserted before period at end `` , and includes community mental health centers established as public nonprofit organizations".

## Effective Date of 1996 Amendment

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104-330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years thereafter, see section 506(c) of Pub. L. 104-330, set out as a note under section 11371 of this title.

## Termination of Trust Territory of the Pacific Islands

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

## **Sec. 11403h. Authorization of appropriations**

(a) In general For purposes of the housing programs under this part, there are authorized to be appropriated \$266,550,000 for fiscal year 1993 and \$277,745,100 for fiscal year 1994. Of any amount appropriated in any fiscal year to carry out this part--

(1) not less than 10 percent shall be available only for carrying out subpart II of this part;

(2) not less than 10 percent shall be available only for carrying out subpart III of this part;

(3) not less than 10 percent shall be available only for carrying out subpart IV of this part; and

(4) not less than 10 percent shall be available only for carrying out subpart V of this part.

(b) Availability Sums appropriated under this section shall remain available until expended.

(Pub. L. 100-77, title IV, Sec. 463, formerly Sec. 459, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4370; renumbered Sec. 463 and amended Pub. L. 102-550, title XIV, Sec. 1406(a), (e)(3), Oct. 28, 1992, 106 Stat. 4029, 4031.)

### **Prior Provisions**

A prior section 463 of Pub. L. 100-77 was renumbered section 473 and is classified to section 11404b of this title.

### **Amendments**

1992--Subsec. (a). Pub. L. 102-550, Sec. 1406(a)(1), added subsec.

(a) and struck out former subsec. (a) which authorized appropriations for subpart II of this part for fiscal years 1991 and 1992.

Subsecs. (b) to (d). Pub. L. 102-550, Sec. 1406(a)(2), (3), redesignated subsec. (d) as (b) and struck out former subsec. (b) which increased budget authority for the program under subpart III of this part for fiscal years 1991 and 1992 and former subsec. (c) which authorized appropriations for subpart IV of this part for fiscal years 1991 and 1992.

## Transitional Provisions; Availability of Appropriations

Section 837(c) of Pub. L. 101-625, as amended by Pub. L. 102-27, title II, Apr. 10, 1991, 105 Stat. 151, provided that: ``Amounts appropriated for use under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act [part D of this subchapter], as it existed immediately before the date of enactment [Nov. 28, 1990] made by this section, that are or become available for obligation shall be available for use under subtitle F of title IV of the McKinney Act [this part], as amended by this section. Any such amounts that shall not have been obligated by March 20, 1991, shall be made available in accordance with the terms of the appropriation under the head `Supplemental Assistance for Facilities to Assist the Homeless' in Public Law 101-507 (104 Stat. 1351, 1364)."

## Section Referred to in Other Sections

This section is referred to in sections 11404, 11405, 11406, 11407, 11407b of this title.

## **Sec. 11404. Authority**

The Secretary may use amounts made available under section 11403h of this title to provide tenant-based rental housing assistance for eligible persons in accordance with this subpart.

(Pub. L. 100-77, title IV, Sec. 471, as added Pub. L. 102-550, title XIV, Sec. 1406(d)(3), Oct. 28, 1992, 106 Stat. 4030.)

## Prior Provisions

A prior section 11404, Pub. L. 100-77, title IV, Sec. 461, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4371, authorized use of appropriations for provision of rental housing assistance to homeless in accordance with shelter plus care program, prior to repeal by Pub. L. 102-550, title XIV, Sec. 1406(d)(3), Oct. 28, 1992, 106 Stat. 4030.



A prior section 471 of Pub. L. 100-77 was classified to section 11405 of this title prior to repeal by Pub. L. 102-550.

### **Sec. 11404a. Housing assistance**

An eligible person on behalf of whom assistance is provided under this subpart shall select the unit in which such person will live using rental assistance under this subpart; except that where necessary to assure that the provision of supportive services to persons is feasible, a recipient may require that a person participating in the program live (1) in a particular structure or unit for up to the first year of participation, and (2) within a particular geographic area for the full period of participation or the period remaining after the period referred to in paragraph \1\ (1).

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 \1\ So in original. Probably should be `` clause".  
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(Pub. L. 100-77, title IV, Sec. 472, formerly Sec. 462, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4371; renumbered Sec. 472 and amended Pub. L. 102-550, title XIV, Sec. 1406(d)(4), Oct. 28, 1992, 106 Stat. 4031.)

#### **Prior Provisions**

A prior section 472 of Pub. L. 100-77 was classified to section 11405a of this title prior to repeal by Pub. L. 102-550.

#### **Amendments**

1992--Pub. L. 102-550 substituted ``An eligible person on behalf of whom assistance is provided under this subpart shall select the unit in which such person will live using rental assistance under this subpart; except that where" for ``Where".

## **Sec. 11404b. Amount of assistance**

The contract with a recipient for assistance under this subpart shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 1437f(c) of this title in effect at the time the application is approved. At the option of the recipient and subject to the availability of such amounts, the recipient may receive in any year (1) up to 25 percent of such amounts or (2) such higher percentage as the Secretary may approve upon a demonstration satisfactory to the Secretary that the recipient has entered into firm financial commitments to ensure that the housing assistance described in the application will be provided for the full term of the contract. Any amounts not needed for a year may be used to increase the amount available in subsequent years.

(Pub. L. 100-77, title IV, Sec. 473, formerly Sec. 463, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4371; renumbered Sec. 473 and amended Pub. L. 102-550, title XIV, Sec. 1406(d)(5), Oct. 28, 1992, 106 Stat. 4031.)

### **Prior Provisions**

A prior section 473 of Pub. L. 100-77 was classified to section 11405b of this title prior to repeal by Pub. L. 102-550.

### **Amendments**

1992--Pub. L. 102-550 struck out at end ``Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance."

## **Secs. 11404c to 11404e. Transferred**

### **Codification**

Section 11404c, Pub. L. 100-77, title IV, Sec. 464, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4371, which provided for housing standards and rent reasonableness, was renumbered section 457 of Pub. L. 100-77 and amended by Pub. L. 102-550, title XIV, Sec. 1406(e)(4), Oct. 28, 1992, 106 Stat. 4031, and transferred to section 11403e-1 of this title.

Section 11404d, Pub. L. 100-77, title IV, Sec. 465, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4372, which provided for payment of rent by tenants, was renumbered section 458 of Pub. L. 100-77 by Pub. L. 102-550, title XIV, Sec. 1406(e)(5), Oct. 28, 1992, 106 Stat. 4031, and transferred to section 11403e-2 of this title.

Section 11404e, Pub. L. 100-77, title IV, Sec. 466, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4372, which provided for payment of administrative fees, was renumbered section 459 of Pub. L. 100-77 by Pub. L. 102-550, title XIV, Sec. 1406(e)(5), Oct. 28, 1992, 106 Stat. 4031, and transferred to section 11403e-3 of this title.

## **Sec. 11405. Authority**

The Secretary may use amounts made available under section 11403h of this title to provide project-based rental housing assistance for eligible persons in accordance with this subpart.

(Pub. L. 100-77, title IV, Sec. 476, as added Pub. L. 102-550, title XIV, Sec. 1406(f), Oct. 28, 1992, 106 Stat. 4032.)

### **Prior Provisions**

A prior section 11405, Pub. L. 100-77, title IV, Sec. 471, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4372, authorized use of appropriations in connection with moderate

rehabilitation of single room occupancy housing, prior to repeal by Pub. L. 102-550, Sec. 1406(d)(2).

### **Sec. 11405a. Housing assistance**

Assistance under this subpart shall be provided pursuant to a contract between the recipient and an owner of an existing structure. The contract shall provide that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

(Pub. L. 100-77, title IV, Sec. 477, as added Pub. L. 102-550, title XIV, Sec. 1406(f), Oct. 28, 1992, 106 Stat. 4032.)

#### **Prior Provisions**

A prior section 11405a, Pub. L. 100-77, title IV, Sec. 472, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4372, related to fire and safety improvements in connection with contracts for housing assistance payments, prior to repeal by Pub. L. 102-550, Sec. 1406(d)(2).

### **Sec. 11405b. Term of contract and amount of assistance**

(a) Term of contract Each contract with a recipient for assistance under this subpart shall be for a term of 5 years, and the owner shall have an option to renew the assistance for an additional 5-year term, subject to the availability of amounts provided in appropriation Acts; except that if an expenditure of at least \$3,000 for each unit (including its prorated share of work on common areas or systems) is required to make the structure decent, safe, and sanitary, and the owner agrees to carry out the rehabilitation with resources other than assistance under this part within 12 months of notification of grant approval, the contract shall be for a term of 10 years.

(b) Amount of assistance Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rental under section 1437f(c)(1) of this title in effect at the time the application is approved. Any amounts not needed for a year may be used to increase the amount available in subsequent years.

(Pub. L. 100-77, title IV, Sec. 478, as added Pub. L. 102-550, title XIV, Sec. 1406(f), Oct. 28, 1992, 106 Stat. 4032.)

#### Prior Provisions

Prior sections 11405b and 11405c were repealed by Pub. L. 102-550, title XIV, Sec. 1406(d)(2), Oct. 28, 1992, 106 Stat. 4030.

Section 11405b, Pub. L. 100-77, title IV, Sec. 473, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4372, listed provisions to be contained in contracts entered into by Secretary with public housing agencies under shelter plus care program.

Section 11405c, Pub. L. 100-77, title IV, Sec. 474, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4373, related to term of occupancy agreements and issuance of vacancy payments under shelter plus care program.

#### **Sec. 11406. Authority**

The Secretary may use amounts made available under section 11403h of this title to provide sponsor-based rental assistance for eligible persons in accordance with this subpart.

(Pub. L. 100-77, title IV, Sec. 481, as added Pub. L. 102-550, title XIV, Sec. 1406(f), Oct. 28, 1992, 106 Stat. 4032.)

#### Prior Provisions

A prior section 11406, Pub. L. 100-77, title IV, Sec. 481, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4373, authorized use of appropriations in connection with provision of rental housing assistance under section 1701q of Title 12, Banks and Banking, prior to repeal by Pub. L. 102-550, Sec. 1406(d)(2).

## **Sec. 11406a. Housing assistance**

Assistance under this subpart shall be provided pursuant to a contract between the recipient and a private nonprofit sponsor that owns or leases dwelling units. The contract shall provide that rental assistance payments shall be made to the sponsor and that such assisted units shall be occupied by eligible persons.

(Pub. L. 100-77, title IV, Sec. 482, as added Pub. L. 102-550, title XIV, Sec. 1406(f), Oct. 28, 1992, 106 Stat. 4032.)

### **Prior Provisions**

A prior section 11406a, Pub. L. 100-77, title IV, Sec. 482, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4373, related to amount of rental housing assistance to be provided under shelter plus care program in connection with section 1701q of Title 12, Banks and Banking, prior to repeal by Pub. L. 102-550, Sec. 1406(d)(2).

## **Sec. 11406b. Term of contract and amount of assistance**

(a) Term of contract The contract with a recipient of assistance under this subpart shall be for a term of 5 years.

(b) Amount of assistance Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rental under section 1437f(c)(1) of this title in effect at the time the application is approved. Any amounts not needed for a year may be used to increase the amount available in subsequent years.

(Pub. L. 100-77, title IV, Sec. 483, as added Pub. L. 102-550, title XIV, Sec. 1406(f), Oct. 28, 1992, 106 Stat. 4033.)

### **Prior Provisions**

Prior sections 11406b and 11406c were repealed by Pub. L. 102 550, title XIV, Sec. 1406(d)(2), Oct. 28, 1992, 106 Stat. 4030.

Section 11406b, Pub. L. 100-77, title IV, Sec. 483, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4373, required that certain housing standards be maintained and reasonable rent be charged prior to provision of rental housing assistance under shelter plus care program.

Section 11406c, Pub. L. 100-77, title IV, Sec. 484, as added Pub. L. 101-625, title VIII, Sec. 837(a), Nov. 28, 1990, 104 Stat. 4373, related to payment of administrative fees to nonprofit entities for costs of administering rental housing assistance under shelter plus care program.

### **Sec. 11407. Authority**

The Secretary may use amounts made available under section 11403h of this title in connection with the moderate rehabilitation of single room occupancy housing described in section 1437f(n) \1\ of this title for occupancy by eligible persons in accordance with this subpart. Amounts available under section 11403h of this title may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units.

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\1\ See References in Text note below.  
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(Pub. L. 100-77, title IV, Sec. 486, as added Pub. L. 102-550, title XIV, Sec. 1406(f), Oct. 28, 1992, 106 Stat. 4033.)

#### **References in Text**

Section 1437f(n) of this title, referred to in text, was repealed by Pub. L. 105-276, title V, Sec. 550(a)(7), Oct. 21, 1998, 112 Stat. 2609.

### **Sec. 11407a. Fire and safety improvements**

Each contract for housing assistance payments entered into under this subpart shall require the installation of a sprinkler system that protects all major spaces, hard-wired smoke detectors, and any other fire safety improvements as may be required by State or local law. For purposes of this section, the term ``major spaces'' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

(Pub. L. 100-77, title IV, Sec. 487, as added Pub. L. 102-550, title XIV, Sec. 1406(f), Oct. 28, 1992, 106 Stat. 4033.)

### **Sec. 11407b. Contract requirements**

Each contract for annual contributions entered into by the Secretary with a public housing agency to obligate the authority made available under section 11403h of this title for use under this subpart shall--

(1) commit the Secretary to make the authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increasing the authority shall be available for the remainder of such 10-year period;

(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of authority; and

(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this subpart shall be given to homeless persons.

(Pub. L. 100-77, title IV, Sec. 488, as added Pub. L. 102-550, title XIV, Sec. 1406(f), Oct. 28, 1992, 106 Stat. 4033.)



## **Sec. 11408. Rural homelessness grant program**

(a) Establishment The Secretary of Housing and Urban Development shall establish and carry out a rural homelessness grant program. In carrying out the program, the Secretary may award grants to eligible organizations in order to pay for the Federal share of the cost of--

(1) assisting programs providing direct emergency assistance to homeless individuals and families;

(2) providing homelessness prevention assistance to individuals and families at risk of becoming homeless; and

(3) assisting individuals and families in obtaining access to permanent housing and supportive services.

### **(b) Use of funds**

(1) In general An eligible organization may use a grant awarded under subsection (a) of this section to provide, in rural areas--

(A) rent, mortgage, or utility assistance after 2 months of nonpayment in order to prevent eviction, foreclosure, or loss of utility service;

(B) security deposits, rent for the first month of residence at a new location, and relocation assistance;

(C) short-term emergency lodging in motels or shelters, either directly or through vouchers;

(D) transitional housing;

(E) rehabilitation and repairs such as insulation, window repair, door repair, roof repair, and repairs that are necessary to make premises habitable;

(F) development of comprehensive and coordinated support services that use and supplement, as needed, community networks of services, including--

(i) outreach services to reach eligible recipients;

(ii) case management;

(iii) housing counseling;

(iv) budgeting;

(v) job training and placement;

(vi) primary health care;

(vii) mental health services;

(viii) substance abuse treatment;

(ix) child care;

(x) transportation;

(xi) emergency food and clothing;

- (xii) family violence services;
- (xiii) education services;
- (xiv) moving services;
- (xv) entitlement assistance; and
- (xvi) referrals to veterans services and legal services; and

(G) costs associated with making use of Federal inventory property programs to house homeless families, including the program established under subchapter V of this chapter and the Single Family Property Disposition Program established pursuant to section 1710(g) of title 12.

(2) Capacity building activities Not more than 20 percent of the funds appropriated under subsection (I)(1) of this section for a fiscal year may be used by eligible organizations for capacity building activities, including payment of operating costs and staff retention.

(c) Award of grants

(1) Communities with populations of less than 10,000

(A) Set aside In awarding grants under subsection (a) of this section for a fiscal year, the Secretary shall make available not less than 50 percent of the funds appropriated under subsection (I)(1) of this section for the fiscal year for grants to eligible organizations serving communities that have populations of less than 10,000.

(B) Priority within set aside In awarding grants in accordance with subparagraph (A), the Secretary shall give priority to eligible organizations serving communities with populations of less than 5,000.

(2) Communities without significant Federal assistance In awarding grants under subsection (a) of this section, including grants awarded in accordance with paragraph (1), the Secretary shall give priority to eligible organizations serving communities not currently receiving significant Federal assistance under this chapter.

(3) State limit In awarding grants under subsection (a) of this section for a fiscal year, the Secretary shall not award to eligible organizations within a State an aggregate sum of more than 10 percent of the funds appropriated under subsection (I)(1) of this section, for the fiscal year.

(d) Application In order to be eligible to receive a grant under subsection (a) of this section, an organization shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The application shall include, at a minimum--

(1) a description of the target population and geographic area to be served;

(2) a description of the types of assistance to be provided;

(3) an assurance that the assistance to be provided is closely related to the identified needs of the target population;

(4) a description of the existing assistance available to the target population, including Federal, State, and local programs, and a description of the manner in which the organization will coordinate with and expand existing assistance or provide assistance not available in the immediate area;

(5) an agreement by the organization that the organization will collect data on the projects conducted by the organization, including assistance provided, number and characteristics of persons served, and causes of homelessness for persons served; and

(6) an agreement by the organization that, to the maximum extent practicable, the organization will involve homeless individuals and families through employment, volunteer services, and otherwise, in providing, operating, and rehabilitating housing assisted under this section and in providing services assisted under this section and services for occupants of housing assisted under this section.

(e) Eligible organizations Organizations eligible to receive a grant under subsection (a) of this section shall include private nonprofit entities and county and local governments.

(f) Federal share

(1) In general The Federal share of the costs of providing assistance under this section shall be 75 percent.

(2) Non-Federal share The non-Federal share of the cost of providing the assistance shall be in cash or in kind, fairly evaluated, including plant, equipment, staff services, or services delivered by volunteers.

(g) Participation of homeless individuals The Secretary shall, by regulation, require each eligible organization receiving a grant under this section to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or

other equivalent policy making entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any housing, services, or other assistance of the eligible organization receiving the grant under this section. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(h) Evaluation

(1) In general The Secretary shall conduct an evaluation of the program to--

(A) determine the effectiveness of the program in providing housing and other assistance to homeless persons in the area served; and

(B) determine the types of assistance needed to address homelessness in rural areas.

(2) Report The Secretary shall submit to Congress, not later than 18 months after the date on which the Secretary first makes grants under the program, the evaluation of the program conducted under paragraph (1), including recommendations for any Federal administrative or legislative changes that may be necessary to improve the ability of rural communities to prevent and respond to homelessness.

(i) Technical assistance The Secretary shall provide technical assistance to eligible organizations in developing programs in accordance with this section, and in gaining access to other Federal resources that may be used to assist homeless persons in rural areas. Such assistance may be provided through regional workshops, and may be provided directly or through grants to, or contracts with, nongovernmental entities.

(j) Termination of assistance If an individual or family who receives assistance under this section violates requirements of the assistance program provided by the organization receiving a grant under this section, the organization may terminate assistance in accordance with a formal process established by the organization that recognizes the rights of individuals receiving such assistance to due process of law, which may include a hearing.

(k) Definitions For purposes of this section:

(1) Program The term ``program'' means the rural homelessness grant program established under this section.

(2) Rural area; rural community The terms ``rural area'' and ``rural community'' mean--

(A) any area or community, respectively, no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget; or

(B) any area or community, respectively, that is--

(i) within an area designated as a metropolitan statistical area or considered as part of a metropolitan statistical area; and

(ii) located in a rural census tract.

(3) Secretary The term ``Secretary'' means the Secretary of Housing and Urban Development.

(I) Authorization of appropriations

(1) In general There are authorized to be appropriated to carry out this section \$30,000,000 for fiscal year 1993 and \$31,260,000 for fiscal year 1994.

(2) Availability Any amount paid to a grant recipient for a fiscal year that remains unobligated at the end of the year shall remain available to the recipient for the purposes for which the payment was made for the next fiscal year. The Secretary shall take such action as may be necessary to recover any amount not obligated by the recipient at the end of the second fiscal year, and shall redistribute the amount to another eligible organization.

(Pub. L. 100-77, title IV, Sec. 491, as added Pub. L. 102-550, title XIV, Sec. 1408, Oct. 28, 1992, 106 Stat. 4035; amended Pub. L. 104-330, title V, Sec. 506(a)(10), Oct. 26, 1996, 110 Stat. 4045.)

## References in Text

This chapter, referred to in subsec. (c)(2), was in the original ``this Act'', meaning Pub. L. 100-77, July 22, 1987, 101 Stat. 482, known as the Stewart B. McKinney Homeless Assistance Act. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

## Amendments

1996--Subsec. (e). Pub. L. 104-330 struck out `` , Indian tribes (as such term is defined in section 5302(a) of this title)," after `` nonprofit entities".

#### Effective Date of 1996 Amendment

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104-330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years thereafter, see section 506(c) of Pub. L. 104-330, set out as a note under section 11371 of this title.

### **Sec. 11408a. Use of FMHA inventory for transitional housing for homeless persons and for turnkey housing**

(a) In general The Secretary of Agriculture (in this section referred to as the ``Secretary") shall, on a priority basis, lease or sell program and nonprogram inventory properties held by the Secretary under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.]--

(1) to provide transitional housing; and

(2) to provide turnkey housing for tenants of such transitional housing and for eligible families.

(b) Priority The priority uses of inventory property under this section shall not have a higher priority than--

(1) the disposition of such property by sale to eligible families; or

(2) the disposition of such property by transfer for use as rental housing by eligible families.

(c) Transitional housing

(1) Leases authorized The Secretary shall lease inventory properties to public agencies and nonprofit organizations to provide transitional housing for homeless families and individuals and to provide such agencies the option to provide turnkey housing opportunities for homeless persons and other inadequately housed families.

(2) Rental to eligible families A public agency or nonprofit organization may rent housing leased to it under paragraph (1) to a

family for up to 10 years and may, during that period, assist the tenant in obtaining a loan and credit assistance under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.] to purchase the housing from the Secretary.

(d) Lease procedures

(1) Identification of property Upon receipt by the Secretary of written notification from a public agency or nonprofit organization that it proposes to lease a property for the purpose of providing transitional housing or for the purpose of providing transitional housing and turnkey housing opportunities, the Secretary shall--

(A) withdraw the property from the market for not more than 30 days for the purpose of negotiations under subparagraph (B);

(B) negotiate a lease agreement with the organization or agency; and

(C) if a lease is agreed to, commence the repairs necessary to make the property meet standards for decent, safe, and sanitary housing.

(2) Lease terms A lease of inventory property under this section shall--

(A) be for a period of not more than 10 years;

(B) provide for the payment of \$1 for the 10-year lease; and

(C) provide the nonprofit organization or public agency--

(i) the right to use the property for transitional housing; and

(ii) the option to arrange for the sale of the property to an eligible purchaser.

(e) Purchase procedures

(1) Identification of property Upon receipt by the Secretary of written notification from a public agency or nonprofit organization that it proposes to purchase a property for the purpose of providing transitional housing or for the purpose of providing transitional housing and turnkey housing opportunities, the Secretary shall--

(A) withdraw the property from the market for not more than 30 days for the purpose of negotiations under subparagraph (B);

(B) negotiate a purchase agreement with the organization or agency; and

(C) if a purchase agreement is agreed to, commence the repairs necessary to make the property meet standards for decent, safe, and sanitary housing.

(2) Purchase terms A purchase of inventory property under this section shall provide for a purchase price equal to not more than the fair market value of the property minus 10 percent.

(f) Employment of homeless individuals A public agency or nonprofit organization may lease or purchase property under this section only if the agency or organization, to the maximum extent practicable, involves homeless individuals and families, through employment, volunteer services, or otherwise, in maintaining, operating, and renovating any properties leased or acquired under this section and in providing any services for occupants of properties assisted under this section.

(g) Participation of homeless individuals

(1) In general The Secretary shall, by regulation, require each public agency and nonprofit organization leasing or purchasing property under this section to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of such agency or organization, to the extent that such organization or applicant considers and makes policies and decisions regarding any property acquired under this section.

(2) Waiver The Secretary may grant a waiver to a public agency or nonprofit organization that is unable to meet the requirement of paragraph

(1), if the agency or organization agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(h) Budget compliance The authority provided to the Secretary under this section shall be effective only to the extent approved in advance in appropriations Acts.

(Pub. L. 100-77, title IV, Sec. 592[492], as added Pub. L. 102-550, title XIV, Sec. 1414, Oct. 28, 1992, 106 Stat. 4041.)

#### References in Text

The Housing Act of 1949, referred to in subsecs. (a) and (c)(2), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. Title V of the Act is classified generally to subchapter III (Sec. 1471 et seq.) of



chapter 8A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.